

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 SAN FRANCISCO - UNLIMITED JURISDICTION

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4 ELIEZER WILLIAMS, a minor,)

5 by SWEETIE WILLIAMS, his)

6 guardian ad litem, et al.,)

7 each individually and on)

8 behalf of all others similarly)

9 situated,)

10 Plaintiff,)

11 vs.) No. 312236

12 STATE OF CALIFORNIA, DELAINE) VOLUME III

13 EASTIN, State Superintendent)

14 of Public Instruction, STATE)

15 DEPARTMENT OF EDUCATION,)

16 STATE BOARD OF EDUCATION,)

17 Defendants.)

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19 Continued Deposition of MICHAEL RUSSELL,
20 Ph.D., at 400 South Hope Street, Los Angeles,
21 California 90071-2899, commencing at 9:45 A.M.,
22 Thursday, February 20, 2003, before Kathy F.
23 Kellogg, CRR, RDR, CSR No. 6591.

1 APPEARANCES OF COUNSEL:
 2
 3 FOR THE PLAINTIFFS:
 4
 5 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
 6 BY: MARK D. ROSENBAUM, ESQ.
 7 CATHERINE E. LHAMON, ESQ.
 8 1616 Beverly Boulevard
 9 Los Angeles, California 90026-5752
 10 (213) 977-9500
 11 rkita@mofo.com
 12
 13 FOR DEFENDANT STATE OF CALIFORNIA:
 14
 15 O'MELVENY & MYERS
 16 PAUL SALVATY, ESQ.
 17 400 South Hope Street
 18 Suite 1500
 19 Los Angeles, California 90071-2899
 20 (213) 430-6000
 21 psalvaty@omm.com
 22
 23
 24
 25

1 APPEARANCES OF COUNSEL (CONTINUED):
 2
 3 FOR INTERVENOR LOS ANGELES UNIFIED SCHOOL
 4 DISTRICT:
 5
 6 STRUMWASSER & WOOCHELL LLP
 7 BY: JOHANNA R. SHARGEL, ESQ.
 8 100 Wilshire Boulevard
 9 Suite 1900
 10 Santa Monica, California 90401
 11 (310) 576-1233
 12 jshargel@strumwooch.com
 13
 14 ALSO PRESENT:
 15
 16 SOPHIE A. FANELLI
 17 (Research Fellow, ACLU
 18 Foundation of Southern California)
 19
 20
 21
 22
 23
 24
 25

1 APPEARANCES OF COUNSEL (CONTINUED):
 2
 3 FOR DEFENDANTS SUPERINTENDENT OF PUBLIC
 4 INSTRUCTION, DELAINE EASTIN, STATE DEPARTMENT
 5 OF EDUCATION AND STATE BOARD OF EDUCATION:
 6
 7 STATE OF CALIFORNIA DEPARTMENT OF JUSTICE
 8 OFFICE OF THE ATTORNEY GENERAL
 9 BY: KARA READ-SPANGLER, ESQ.
 10 1300 I Street
 11 Suite 1101
 12 Sacramento, California 94244-2550
 13 (916) 327-0356
 14 kara.readspangler@doj.ca.gov
 15
 16 FOR INTERVENOR CALIFORNIA SCHOOL BOARDS
 17 ASSOCIATION:
 18
 19 CALIFORNIA SCHOOL BOARDS ASSOCIATION
 20 BY: ABE HAJELA, ESQ. (Special Counsel)
 21 555 Capitol Mall
 22 Suite 1425
 23 Sacramento, California 95814
 24 (916) 442-2952
 25 abe@olsonhagel.com

1 MICHAEL RUSSELL, Ph.D.,
 2 the witness, having been previously administered an
 3 oath in accordance with CCP Section 2094, testified
 4 further as follows:
 5
 6 EXAMINATION (CONTINUING)
 7 BY MR. SALVATY:
 8 Q. Good morning, Professor Russell.
 9 A. Good morning.
 10 Q. Did you -- did you do anything to prepare
 11 for today's session of your deposition? 9:46AM
 12 A. Yes, I did.
 13 Q. What did you do?
 14 A. Reread the transcript a couple of times.
 15 Reread my report. Looked at the CD, web site, some
 16 new documents, to see if there's any new documents. 9:46AM
 17 Reread a handful of other documents that I had from
 18 before.
 19 Q. What documents that -- did you reread of
 20 your own? Do you remember?
 21 A. There's something, a couple of them about 9:46AM
 22 the II/USP. Evaluation of the II/USP.
 23 The -- I think it was a six-year plan for
 24 the IPI. I skimmed a couple of the meeting notes
 25 from the PSA Advisory Committee.

1 That's what I basically remember. 9:46AM
 2 Q. Okay. Did you meet with lawyers? 9:47AM
 3 A. I had a phone conversation with lawyers.
 4 Q. Who did you have a conversation with?
 5 A. Catherine Lhamon, Sophie Fanelli and Mark
 6 Rosenbaum. 9:47AM
 7 Q. When was that?
 8 A. It was either Monday night or Tuesday
 9 night, I forget which. Tuesday night. Yeah, it was
 10 Tuesday night. I can't remember.
 11 Q. And how long was the phone conversation? 9:47AM
 12 A. 20 minutes.
 13 Q. What did you discuss?
 14 A. They basically just suggested that if I
 15 hadn't already done it, I should look at the
 16 transcript, and that I should review parts of the 9:47AM
 17 report that we hadn't talked about at length.
 18 They -- we talked a little bit about Rhode
 19 Island's accountability system again. That's -- you
 20 know, the weather. That's about it.
 21 Q. From reviewing your transcript, did you 9:48AM
 22 identify any areas that you'd like to make changes
 23 to your testimony or clarify any testimony that you
 24 made before?
 25 A. The -- on the document, I had cited just a

1 handful of little typos and words that were wrong. 9:48AM
 2 But besides that, no. 9:48AM
 3 Q. Okay. Have you done any further work --
 4 and I'm talking about separate from preparing for
 5 your deposition. Have you done any further work
 6 pertaining to this case? 9:48AM
 7 A. I did prepare -- I talked last time about
 8 the scholarly paper. I did prepare that. A
 9 week-and-a-half, two weeks ago. I can't remember
 10 what it was.
 11 Q. What did you do to prepare the scholarly 9:48AM
 12 paper?
 13 A. Basically, I reduced -- I had to get it
 14 down to about a 20-page limit, so I was just picking
 15 and choosing and rewriting some sections to try to
 16 make it flow together. 9:49AM
 17 (Interruption at the door.)
 18 MR. SALVATY: Let's go off the record for
 19 a second.
 20 BY MR. SALVATY:
 21 Q. All right. Back on the record. 9:49AM
 22 Have you finished preparing the scholarly
 23 paper?
 24 A. I sent a draft in. I'm sure some folks
 25 will review it, and there will be comments and some

1 more revisions. 9:50AM
 2 Q. Who did you send the draft to? 9:50AM
 3 A. To Jeannie Oakes.
 4 Q. Have you discussed the scholarly paper
 5 with anyone?
 6 A. Jen Cowan, my research assistant. 9:50AM
 7 Q. How about Dr. Oakes?
 8 A. No, we haven't talked. I mean, I sent it
 9 via e-mail. She said, "Thanks." That's it.
 10 Q. When did you send it off?
 11 A. It was probably the first -- end of the 9:50AM
 12 first week of February. I don't recall exactly.
 13 Q. Okay. I want to talk about some of the
 14 recommendations that you have in your report, as far
 15 as California's accountability program. First --
 16 A. Can I have -- is there a copy I could 9:51AM
 17 have?
 18 Q. Of the report?
 19 A. Of the report.
 20 Q. Actually, I don't have a copy of it.
 21 MS. LHAMON: You can look on mine. 9:51AM
 22 THE WITNESS: Thank you. Okay.
 23 BY MR. SALVATY:
 24 Q. First, I'm not referring to anything
 25 specific in the report here.

1 Do you have an opinion about what the 9:51AM
 2 state should do to improve its accountability 9:51AM
 3 program?
 4 A. I have ideas for ways that it could be
 5 improved, yeah.
 6 Q. I'm -- I'm wondering if you have any 9:51AM
 7 specific recommendations, things that you think the
 8 state should do to improve the accountability
 9 program?
 10 MS. LHAMON: Separate from what's already
 11 in the report? 9:51AM
 12 MR. SALVATY: No, I mean at all.
 13 THE WITNESS: I mean, in the report I make
 14 a number of suggestions about ways that it could be
 15 improved.
 16 BY MR. SALVATY: 9:52AM
 17 Q. Okay. What do you think the state should
 18 do to improve its accountability program?
 19 A. Well, again, I don't think they should
 20 necessarily do things. The last time, we talked at
 21 length about how an accountability system, or 9:52AM
 22 program should meet purposes. So again, it depends
 23 on what the state ultimately decides is the purpose,
 24 and what they're trying to accomplish with the
 25 accountability system.

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1 But from my perspective, some of the 9:52AM
 2 things that they should consider doing is, you know, 9:52AM
 3 collecting more information about inputs, trying to
 4 create a structure that encourages or requires
 5 schools to look at the relationship between inputs
 6 and outputs. I think they should continue 9:52AM
 7 developing and introducing this -- the standards
 8 base test.
 9 Last time we talked at length as well
 10 about whether it's really necessary to continue with
 11 the Norm Reference Test. And, again, a lot of 9:53AM
 12 the -- the ultimate decisions or recommendations
 13 that I might make would depend on what people decide
 14 the ultimate purpose was.
 15 Q. Okay. So is it fair to say that at this
 16 point, you don't have any specific things in mind 9:53AM
 17 that the state should do, any specific actions the
 18 state should take, to improve its accountability
 19 program?
 20 MS. LHAMON: Mischaracterizes his
 21 testimony. 9:53AM
 22 THE WITNESS: Again, in the report in the
 23 beginning, and we talked about this at length last
 24 time, I lay out my assumptions for what an
 25 accountability system should do. In the report, I

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1 also talk about some of what the state implies 9:53AM
 2 should be happening as a result of its testing and 9:53AM
 3 accountability program; that it should be impacting
 4 instructional practices.
 5 So combining those two, my beliefs about
 6 what an accountability system should do and what the 9:54AM
 7 State says that its accountability should be, how it
 8 should be impacting, what's happening in schools, a
 9 number of the recommendations I make I would put
 10 forth, assuming that those purposes were to continue
 11 tomorrow. 9:54AM
 12 BY MR. SALVATY:
 13 Q. Okay. Let me ask you this: Do you have
 14 an opinion about whether the state should try to
 15 improve its current accountability system or
 16 alternatively abolish the current accountability 9:54AM
 17 system and start from scratch, start over?
 18 A. I -- I don't think it's necessary to start
 19 completely over, given that as part of the
 20 accountability system, they've been developing
 21 these -- the California Standards Test, which are 9:54AM
 22 de- -- designed to be aligned with the state
 23 standards. So it seems to me that --
 24 (Telephonic interruption.)
 25 MS. LHAMON: Go ahead.

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1 THE WITNESS: -- that since those are 9:55AM
 2 aligned with the test -- with the state standards, 9:55AM
 3 and they've already been developed as part of the
 4 system, that you wouldn't want to completely throw
 5 those away. So that's definitely a starting point.
 6 I don't think you would know -- I wouldn't 9:55AM
 7 say you want to completely throw everything away and
 8 start from scratch.
 9 BY MR. SALVATY:
 10 Q. Would you say that major changes are
 11 needed in order to make the program effective? 9:55AM
 12 MS. LHAMON: Vague.
 13 THE WITNESS: I mean, I'm not sure what
 14 you mean by "major."
 15 BY MR. SALVATY:
 16 Q. Would you characterize -- are you able to 9:55AM
 17 characterize the changes that are needed as either
 18 kind of minor changes, versus major systemic
 19 changes?
 20 MS. LHAMON: Objected to as vague.
 21 THE WITNESS: I guess -- I mean, it 9:56AM
 22 depends. I wouldn't characterize them necessarily
 23 as major, given that they're -- there is at least
 24 one other state that's doing a number of these
 25 things. But I wouldn't characterize it as just

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1 tweaking the program either. 9:56AM
 2 I mean, I think there's some significant 9:56AM
 3 additions that need to be made.
 4 BY MR. SALVATY:
 5 Q. Let me refer you to Page 54 of your
 6 report, and Section 7.3, "Blueprint for California." 9:57AM
 7 A. Let me just -- I have another copy of
 8 this. I'm just not sure if it's the same copy --
 9 Q. Okay.
 10 A. -- so --
 11 MS. LHAMON: A copy is fine. 9:57AM
 12 THE WITNESS: Are you sure?
 13 MS. LHAMON: Yeah, it's fine.
 14 BY MR. SALVATY:
 15 Q. Do you see that section?
 16 A. Yes. 9:57AM
 17 Q. Here you identify several goals that you
 18 say should be met in a comprehensive accountability
 19 system; is that right?
 20 A. Yes.
 21 Q. The first one, the first bullet point here 9:58AM
 22 is:
 23 "Provide relevant and timely
 24 information that schools can use to
 25 examine the impact their programs

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1 have on a wide spectrum of student 9:58AM
 2 learning." 9:58AM
 3 What -- what do you mean here?
 4 A. That the -- that one part of the
 5 accountability system should be providing
 6 information to schools about different areas, or 9:58AM
 7 different parts of student learning.
 8 In theory, they're discussed in the
 9 state's standards, so there's some alignment there.
 10 And that it's provided in a way that it can inform
 11 or allow schools to make decisions about the 9:59AM
 12 effectiveness of their various programs and
 13 practices.
 14 Q. In your opinion, does California's current
 15 accountability program do this?
 16 A. Not -- not really. 9:59AM
 17 Q. When you say "provide relevant
 18 information," what -- what do you mean by "relevant
 19 information" here?
 20 A. In- -- information that's meaningful,
 21 given what it is schools are trying to teach 10:00AM
 22 students, and the ways in which they're trying to
 23 teach students.
 24 Q. Do you have any specific types of
 25 information in mind?

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1 A. Oh, yeah. Some of it would be test 10:00AM
 2 scores. Some of it might be things like graduation 10:00AM
 3 rates. Some of it might be information about -- an
 4 attempt to -- for schools to collect information
 5 about -- systematically about what they're doing,
 6 which could include, you know, the teachers that 10:00AM
 7 they're providing, the professional development
 8 they're providing the teachers, the instructional
 9 materials that are made available to students.
 10 You know, it could be the way that they
 11 are grouping students. It could be a whole -- whole 10:00AM
 12 variety of things.
 13 So, again, it's providing information
 14 that's going to allow them to look at the
 15 relationship between what is it they're doing, their
 16 inputs, and the effect it's having on students and 10:01AM
 17 the learning.
 18 Q. The next bullet here is "Focus both on
 19 inputs and on outputs."
 20 It's -- it's your opinion -- I know you've
 21 said this several times -- that in order to be 10:01AM
 22 effective, California's accountability program
 23 should focus both on inputs and outputs; is that
 24 right?
 25 A. To -- to be educational, yeah, to be --

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1 yeah, educational beneficial, yeah. 10:01AM
 2 Q. Which inputs should the accountability 10:01AM
 3 system focus on?
 4 A. Well, in the report I talk at length. And
 5 last time we met, I talked at length about a whole
 6 variety of inputs, and I just described a number of 10:02AM
 7 them as well. I mean, everything from structural
 8 materials that are being provided and used, you
 9 could look at how they're being used.
 10 Could look at, you know, the conditions in
 11 which kids are learning. You could look at the 10:02AM
 12 quality of teachers. You could look at parental
 13 inter-involvement if you wanted to. I mean, if you
 14 felt that was an important factor. Safety issues.
 15 I mean, a wide variety of -- of issues that we've
 16 talked about. 10:02AM
 17 Q. Okay. And I understand you've talked
 18 about possible inputs.
 19 I'm wondering if -- do you have an opinion
 20 about what specific inputs the state's
 21 accountability system should take into account? 10:02AM
 22 MS. LHAMON: Asked and answered.
 23 THE WITNESS: Yeah, I mean, I list them
 24 all at length in the -- in the report.
 25 BY MR. SALVATY:

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1 Q. So you think the state's accountability 10:03AM
 2 system should take into account all of the inputs 10:03AM
 3 that you've listed in the report?
 4 A. I think it would be useful for them, yeah.
 5 Q. Do you have an opinion about who should
 6 decide which inputs to focus on? 10:03AM
 7 A. I -- I don't think it should be any one
 8 person. I would think it would be, you know, a
 9 committee or a group of people that would involve
 10 educators; that would involve policymakers; may
 11 involve parents. Community members. Very much like 10:03AM
 12 any kind of standards setting process or standard
 13 development process.
 14 Q. And how would that group of people go
 15 about identifying which inputs to focus on?
 16 A. Part of it would be through an 10:04AM
 17 understanding of what -- through prior research and
 18 through the literature and just through common sense
 19 factors that -- that impact student learning.
 20 Some of it would be, too, looking at
 21 across the state factors for which there's a large 10:04AM
 22 amount of variation or factors for which there's
 23 unsatisfactory levels of existence, if you will.
 24 So, for example, in -- I'll use an example
 25 from Rhode Island. In Rhode Island there's not a

1 great amount of variance in the quality fac- -- 10:05AM
 2 school facilities. And so -- and they all -- all 10:05AM
 3 the facilities basically meet what would be seen as
 4 a minimum standard. So it wouldn't make a lot of
 5 sense in Rhode Island's context to be collecting
 6 information about that. 10:05AM

7 In California, it appears that there seems
 8 to be some variation, significant variation, and
 9 some schools that are below will be deemed a basic
 10 minimum quality. So, in California, that would be a
 11 relevant piece of information to collect. 10:05AM

12 It would be through a process of, again,
 13 looking at all these factors that are believed to
 14 impact learning, and then making decisions as to
 15 what's really relevant to collect, given the
 16 conditions in California and practices in 10:05AM
 17 California.

18 Q. In your view, would the decision about
 19 which inputs to focus on, would that be made by one
 20 group for the entire school system?

21 A. Do you mean -- 10:06AM

22 MS. LHAMON: Asked and answered and calls
 23 for speculation.

24 THE WITNESS: Do you mean the state school
 25 system?

1 Q. Well, how long it's likely to take. Why 10:07AM
 2 don't I ask that.

3 A. In Cal- -- I don't, in California.

4 Q. Do you know how many schools there are in
 5 California, how many public schools? 10:07AM

6 A. Not off the top of my head.

7 Q. Do you have a ballpark idea?

8 A. At one point, I had a database that had
 9 every school listed in it, and I don't remember how
 10 many schools were in that when we were doing -- 10:08AM
 11 actually, we had all the high schools.

12 I don't remember -- I don't remember the
 13 number of schools.

14 Q. Do you know how many students?

15 A. Not off the top of my head. 10:08AM

16 Q. Can you make a ballpark estimate?

17 A. Not that's gonna be accurate, no. I mean,
 18 it's -- it's a large number.

19 Q. Do you know how many school districts
 20 there are in California? 10:08AM

21 A. Again, I had a database at one point. I
 22 don't remember off the top of my head how many there
 23 are.

24 Q. Did your database have all the school
 25 districts in it? 10:09AM

1 BY MR. SALVATY: 10:06AM

2 Q. Yes.

3 A. I mean, it really depends.

4 Q. What does it depend on?

5 A. It depends on how many people are involved 10:06AM
 6 in that initial group; who's involved in the initial
 7 group. Depends on past experiences in California,
 8 in terms of what's effective in developing and
 9 implementing policies and practices.

10 Q. Do you have an opinion about how many 10:06AM
 11 people should be involved in that group?

12 A. No, I don't.

13 Q. Do you have an opinion about what types of
 14 processes have worked in the past, coming up with
 15 policies? 10:06AM

16 A. In California?

17 MS. LHAMON: Objection. Vague.

18 BY MR. SALVATY:

19 Q. Yes, in California.

20 A. No, I don't. 10:06AM

21 Q. Do you have an opinion about how long that
 22 process should take to decide which inputs to focus
 23 on?

24 A. How long it should take or how long it's
 25 likely to take? 10:07AM

1 A. Yeah, it did. 10:09AM

2 Q. Did you say it had all high schools in it,
 3 or did it have all schools in it?

4 A. Originally, I mean, I was getting it from
 5 NCES, who collects this information across all 10:09AM
 6 states.

7 We were doing some modeling for
 8 California. We got the initial database and then --
 9 for all schools in California, and then selected the
 10 high schools because we were doing high schools and 10:09AM
 11 college modeling. And I just don't remember the
 12 numbers.

13 Q. When did you -- what was the purpose of
 14 this database? Why did you have it?

15 A. The NC -- well, it's public. Anyone can 10:09AM
 16 get it. We were using it for some model that we
 17 were doing around college admissions and diversity.

18 Q. Was this in connection with the consulting
 19 work you did for California a few years ago?

20 A. No. It was with the National Board. A 10:10AM
 21 grant from the Ford Foundation.

22 Q. When did you do this work?

23 A. I'd have to look at my CV. It was, I
 24 don't know, three years ago, maybe.

25 Q. Did you refer to this database in 10:10AM

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1 performing your work on this case? 10:10AM
2 A. No.
3 Q. I believe you've talked about how a -- a
4 group of -- of people would work together to decide
5 which inputs to focus on. 10:11AM
6 Do you have any -- do you have an opinion
7 about what role specifically the state should play
8 in that process?
9 A. I'm not sure I understand what you mean.
10 Q. I'm trying to find out if you think the 10:11AM
11 state should coordinate the process, or initiate the
12 process, or what exactly the role of the State
13 should be in facilitating that process.
14 A. If I understand the question, I mean,
15 since it's a state accountability system, I would 10:12AM
16 think that the state would be involved in initiating
17 and coordinating that process, yeah.
18 Q. Do you have an opinion about specifically
19 how the state should carry out that role?
20 A. No. 10:12AM
21 Q. In this bullet, you also talk about focus
22 on outputs.
23 Do you have an opinion about which
24 specific outputs the state's accountability program
25 should take into account? 10:12AM

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1 A. I -- yeah. I mean, I think I said this 10:12AM
2 before. Measures of student learning that are
3 aligned with the state standards, and ideally --
4 again, I talked about this at length before -- the
5 extent to which it can cover the standards broadly 10:13AM
6 would be desirable.
7 If you consider graduation rates,
8 persistence rates, as outputs as well, those should
9 be factors that are looked at.
10 I would think that continuation onto 10:13AM
11 higher education might be considered an out -- an
12 output that you might want to look at as well.
13 Again, it depends on what other aspects of
14 education, you know, people deem to be valuable.
15 Q. And as far as your views on who should 10:14AM
16 decide what outputs to focus on, would your response
17 be the same as -- as this for inputs?
18 A. That it should be a group of people.
19 Yeah, I would think so, yeah.
20 Q. The next bullet is, "Collect more valid 10:14AM
21 and authentic measures of student achievement."
22 Do you have an opinion about how the state
23 should do this?
24 A. Again, I talked earlier about a -- a
25 preference to move away from Norm Reference Tests 10:14AM

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1 and tests that are more closely aligned with the 10:14AM
2 standards, which the CST's seem to be. You know,
3 again, depending on what outputs people are talking
4 about. For example, if writing is one of them,
5 maybe an attempt to move towards writing produced in 10:15AM
6 a non, quote-unquote, testing situation. That is,
7 classroom samples of student writing.
8 You know, again, it depends on what
9 standards people ultimately feel are valuable and
10 should be measured as outputs. 10:15AM
11 Q. The next is, "Implement a statewide
12 coherent student level data system."
13 Do you have an opinion about how the state
14 should go about doing that?
15 A. No. 10:15AM
16 Q. Do you know what the State is currently
17 doing to implement a statewide coherent student
18 level data system?
19 MS. LHAMON: Assumes facts not in
20 evidence. 10:16AM
21 THE WITNESS: I -- I know vaguely, based
22 on what's available on the web site.
23 BY MR. SALVATY:
24 Q. What are you -- what's your understanding
25 about that? 10:16AM

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1 A. They are developing or have developed a 10:16AM
2 CSID, I believe that's what it's called. It's not
3 mandatory.
4 There are some problems with it. I'm not
5 sure exactly what the problems are, besides it not 10:16AM
6 being mandatory. But they're continuing to develop
7 it, and based on some of the documents, it seems
8 they're hopeful that it will be fully in place in
9 2006, 2008, somewhere in that -- that range.
10 Although, it's unclear what they're going to do 10:16AM
11 about the mandatory aspect of it.
12 Q. What do you mean by, "the mandatory
13 aspect"?
14 A. Well, there's some -- again, based on the
15 documents that are available on the web site, 10:17AM
16 there's concern that currently it's not mandatory,
17 that all schools and all districts participate.
18 And I haven't seen anything that says
19 explicitly that it is going to be mandatory. That
20 may be there, but I haven't come across that. So it 10:17AM
21 seems to me if you are going to a statewide system,
22 but some schools are not going to participate, then
23 it's not truly going to be a statewide system. And
24 I think that's one of the issues that I see
25 discussed in that, in these documents. 10:17AM

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1 Q. Do you have an opinion about whether such 10:17AM
 2 a system should be mandatory in California?
 3 A. Again, it depends on purpose. If they
 4 really believe that it's necessary to track all
 5 students in the state, then it should be mandatory. 10:17AM
 6 It seems to me it should be helpful if it was.
 7 Q. The next bullet is, "Be sensitive to local
 8 context."
 9 What does that mean?
 10 A. Basically, it means collecting information 10:18AM
 11 about what's happening within a local context,
 12 meaning a school or a district, and that -- allowing
 13 people, whether it's people in the school or people
 14 outside the school, to relate practices to a local
 15 setting, as opposed to a statewide setting. 10:18AM
 16 Q. Do you have an opinion about how the state
 17 should try to achieve this goal?
 18 A. Besides collecting information at the
 19 school level, no.
 20 Q. Do you have an opinion about how the state 10:19AM
 21 should go about collecting information at the school
 22 level?
 23 A. There's a variety of ways that they could
 24 do it. Again, it depends on the information system
 25 that's in place. It depends on the resources that 10:19AM

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1 are allocated to it. It depends ultimately on the 10:19AM
 2 type of information that's being decided -- or being
 3 collected, pardon me.
 4 Q. Are you able to say, given what you know
 5 today, that the state should go about collecting 10:19AM
 6 this information in a particular way?
 7 A. No. I mean, again, as I said, it depends
 8 on all those variables.
 9 Q. Okay. And the last bullet here is:
 10 "Increase the responsibility of 10:20AM
 11 teachers and school-leaders for
 12 accounting for educational practices
 13 and their outcomes."
 14 What do you mean here?
 15 A. I think earlier I talked at length about 10:20AM
 16 the need for schools to look carefully, and
 17 self-reflect on what it is they're doing and what
 18 impact it's having. That's what I'm talking about
 19 there. Basically, simply collecting this
 20 information isn't enough if people aren't using that 10:20AM
 21 information to study themselves in the form of
 22 future practices.
 23 Q. Do you have an opinion about what
 24 California should do to achieve accountability in
 25 its accountability system? 10:21AM

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1 A. Again, I have ideas. I don't know if it's 10:21AM
 2 an opinion.
 3 Q. What -- what ideas do you have?
 4 A. I -- I think they should try to direct
 5 resources to developing and implementing the CSTs as 10:21AM
 6 soon as possible, all of them.
 7 And, again, depending on purposes, it
 8 seems to me that one way to free up some resources
 9 might be to eliminate the Norm Reference Test;
 10 although, they probably have a contract and it may 10:21AM
 11 not be possible now. But that would have been one
 12 option.
 13 It seems to me the sooner you can get your
 14 measures defined and in place, you're gonna have
 15 stability sooner. 10:22AM
 16 Q. Anything else?
 17 A. I mean, no, that's where I would begin.
 18 Q. Isn't the state already trying to
 19 implement the CSTs?
 20 A. Oh, they are, but my point is that they're 10:22AM
 21 going to be rolling them out piecemeal over the next
 22 four -- three years, four years. So the sooner you
 23 could get all those out there and in place, the
 24 sooner you're likely to have stability.
 25 Q. Do you think it would be possible to roll 10:22AM

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1 them out faster than the state is doing now? 10:22AM
 2 A. Yeah, it's -- it's a question of resource
 3 allocation.
 4 Q. Do you have an opinion about how much
 5 faster they could be rolled out? 10:23AM
 6 A. No. I mean, it's resource allocation.
 7 It also takes time to develop them,
 8 but . . .
 9 Q. Do you have any other ideas about how the
 10 state -- strike that. 10:23AM
 11 Do you have any other ideas about what
 12 California should do to achieve stability in its
 13 accountability system?
 14 A. I mean, given that I believe there's a --
 15 a fair number of changes that should take place, 10:23AM
 16 which we've talked about here, I -- I -- I think it
 17 would be helpful to just basically take a break --
 18 not literally take a break here -- but for them to
 19 take a break and think through what it is they're
 20 doing and what they want to accomplish and what the 10:24AM
 21 purpose is. Clearly articulate that, and then
 22 create a whole system and put that whole system into
 23 place rather than refining this.
 24 I mean, because even when you read the
 25 documents, the six-year plan, at the end of the 10:24AM

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1 sixth year, they're still talking about possible 10:24AM
 2 other modifications to the system.
 3 So even though it appears that there may
 4 be stability at the end of this six years, there's
 5 also a likely -- it's likely that things will 10:24AM
 6 continue to change, which it seems to me that rather
 7 than tinkering as you're going along indefinitely,
 8 it make sense to just pause, think this through,
 9 implement it, put it -- let it be in place for a
 10 while, and then make some changes if -- if changes 10:25AM
 11 are needed.
 12 Q. How long of a pause do you think is
 13 needed?
 14 MS. LHAMON: Speculation.
 15 THE WITNESS: Yeah, I don't know. 10:25AM
 16 BY MR. SALVATY:
 17 Q. Are you able to be more specific when you
 18 talk about taking a break? What would that mean?
 19 A. Well, there's obviously federal
 20 legislation and requirements that are kicking in, so 10:25AM
 21 there's -- it wouldn't necessarily mean stopping
 22 everything that they're doing today. You could
 23 continue testing to meet those needs.
 24 But rather than investing time and energy
 25 and trying to create and rule out pieces and forming 10:26AM

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1 new contracts that may or may not be in place six 10:26AM
 2 years down the road, I think they should -- they
 3 should just, as I said, pause, and figure out
 4 long-term what it is -- what type of program they
 5 want in place. 10:26AM
 6 Q. What specifically do you think they should
 7 stop doing right now in the pause? Are you able to
 8 be more specific?
 9 A. What they should stop doing?
 10 Q. Yeah. 10:26AM
 11 A. I've mentioned this several times: That I
 12 think one of the things they should consider not
 13 doing is the Norm Reference Test. It doesn't seem
 14 to be terribly useful.
 15 Q. Okay. I'm unclear. I thought you said 10:27AM
 16 they should continued testing, but --
 17 A. I said they --
 18 Q. And I'm not trying to be argumentative, I
 19 really just -- I'm unclear on what you were saying
 20 before, because you talked about taking a pause. 10:27AM
 21 You also talked about continuing testing.
 22 How did -- what did you mean by that?
 23 A. The CSTs, I would think they would likely
 24 want to continue with, in part to meet the federal
 25 regulations and requirements. 10:27AM

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1 I don't see any need to do the Norm 10:27AM
 2 Reference Test to meet the federal requirements.
 3 And I don't see that the Norm Reference Tests are
 4 providing a much useful information about progress
 5 towards the state standards anyways. 10:28AM
 6 So it seems to me that you can continue
 7 with the CSTs in a way that's meeting the federal
 8 requirements, not do the Norm Reference Test, and
 9 yet simultaneously be working on a plan for -- for a
 10 full-fledged system. 10:28AM
 11 (Mr. Rosenbaum joins proceedings.)
 12 MS. LHAMON: Shall we take a break?
 13 MR. SALVATY: Okay. Off the record.
 14 (Discussion off the record.)
 15 BY MR. SALVATY: 10:29AM
 16 Q. All right. Professor Russell, you've
 17 talked about how you were unable to determine what
 18 the purpose underlying California's current
 19 accountability program is, or what purpose the
 20 policymakers had in mind. 10:30AM
 21 Is that -- is that correct?
 22 A. I think I was -- I said that I could -- it
 23 wasn't clearly stated anywhere specifically what the
 24 purpose was, or the purposes.
 25 Q. Do you have an opinion about what the 10:30AM

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1 purpose of California's accountability system should 10:30AM
 2 be?
 3 A. Yeah, I -- I mean, in the early part of
 4 the report, I talk at length about what I believe
 5 the purposes of an accountability system should be. 10:30AM
 6 And I think that applies to California as
 7 well.
 8 Q. Where in your report are you referring to?
 9 A. I think it's one of my -- at the first
 10 deposition, I talked about how I presented my bias, 10:31AM
 11 where I was coming from. So it was in that section.
 12 Q. Oh.
 13 MR. HAJELA: It's the "Nature of
 14 Assignment" section.
 15 THE WITNESS: Yeah, thank you. 10:31AM
 16 Yeah, so Roman numeral iv: "The
 17 overarching assumption implicit in much of my
 18 opinion" --
 19 THE REPORTER: I'm sorry?
 20 THE WITNESS: "The overarching
 21 assumption implicit in much of my
 22 opinion is that states, California
 23 included, provide funding and
 24 leadership for public
 25 education. . ." 10:31AM

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1 And I won't read the whole thing. 10:31AM
2 BY MR. SALVATY:
3 Q. Okay. And I was unclear.
4 I thought this was an assumption you made.
5 I didn't know if this was your view about what the 10:31AM
6 purpose of California's accountability program
7 should be.
8 A. It's -- it's what I see as the purpose for
9 our accountability systems, California included.
10 It's not written specifically as a purpose, but it 10:32AM
11 captures what the purposes should be.
12 Q. Do you have an opinion about who should
13 decide what the purpose of the accountability
14 program should be?
15 A. I mean, I don't think it's any one 10:32AM
16 individual. It would be a group of people. I'm not
17 sure who that group necessarily would be.
18 Q. Do you have an opinion about how the state
19 should go about defining the purpose of its
20 accountability program? 10:33AM
21 A. No.
22 Q. In the page of your report that you
23 referred to, Roman numeral iv -- actually, it's not
24 on Roman numeral iv.
25 In your report, you refer to "gross 10:34AM

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1 disparities in education" in California, I think on 10:34AM
2 Page 47.
3 Do you see that under 7.1?
4 A. Uh-huh. Yes.
5 Q. What gross disparities are you referring 10:34AM
6 to?
7 A. Both in terms of the opportunities for
8 students to learn, and conditions in which they
9 learn, and the actual learning, learning as measured
10 by test scores. 10:35AM
11 MS. SPANGLER: Can you read that back.
12 (Record read.)
13 BY MR. SALVATY:
14 Q. Do you have an opinion about the causes of
15 those disparities? 10:35AM
16 A. No, I don't.
17 Q. Do you believe the state has caused the
18 disparities you referred to?
19 A. I don't have an opinion about it.
20 Q. Do you believe the state's accountability 10:36AM
21 program should attempt to prevent, detect and
22 correct those disparities?
23 A. I think that should be one -- one role of
24 the accountability system.
25 Q. Do you have an opinion about which 10:36AM

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1 disparities the state should focus on first? 10:36AM
2 MS. LHAMON: Incomplete hypothetical.
3 THE WITNESS: I -- I talk in other
4 sections of the report about the desirability of
5 focusing -- if it input -- an important input seems 10:36AM
6 to be missing, or there seems to be a problem with
7 it in a certain school, that it would be desirable
8 to focus on that input in that school before
9 focusing on the outcomes. But that's likely to vary
10 across schools. So there isn't any one input that I 10:37AM
11 think you would necessarily focus on first, if
12 that's what you're asking.
13 BY MR. SALVATY:
14 Q. Okay. Do you have an opinion about what
15 specifically the state should do to improve the API? 10:37AM
16 A. When you say "the API," you mean the
17 actual index itself?
18 Q. Yes, I do.
19 A. At -- again, in the report I talk at
20 length about how the API is not terribly useful 10:37AM
21 because it boils a lot of information down into a
22 single index. So I'm -- I -- one of the things that
23 I think the state should consider and probably ought
24 to do is move away from an attempt to boil it down
25 to a single index. 10:38AM

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1 And that's where I would begin. 10:38AM
2 Q. Do you have any other opinions about what
3 the state should do to improve the API?
4 A. Well, I make that suggestion would it, in
5 fact, eliminate the API as the single index. So, 10:38AM
6 no.
7 Q. Do you have an opinion about how the state
8 should move away from the single index?
9 MS. LHAMON: The question's vague.
10 THE WITNESS: Besides making that de -- 10:39AM
11 I'm not sure what you mean.
12 BY MR. SALVATY:
13 Q. Okay. I just wondered if you had an
14 opinion about how the state should go about doing
15 what you think it should do? 10:39AM
16 MS. LHAMON: The question's still vague.
17 Do you mean what steps specifically the
18 state should take?
19 MR. SALVATY: Exactly. Thank you.
20 THE WITNESS: In terms of reaching that 10:39AM
21 decision?
22 BY MR. SALVATY:
23 Q. No. No. I meant in terms of executing.
24 A. Do you mean just stop calculating the API?
25 I mean, how do they not calculate it? I'm not being 10:39AM

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1 wise, I just don't understand. 10:39AM
 2 Q. No, I understand.
 3 No, I meant -- I thought you testified
 4 that the state should -- should move away from using
 5 a single index -- 10:40AM
 6 A. Right.
 7 Q. -- which is the API. And I wondered if
 8 you had any -- anything specific in mind about what
 9 the state should do to move away from using that.
 10 And what I mean, what should it do instead? 10:40AM
 11 A. Oh. I mean, I think one of the things
 12 that they should consider doing instead is reporting
 13 multiple scores. You know, so rather than combining
 14 multiple scores and multiple pieces of information
 15 into one index, they should report that as separate 10:40AM
 16 pieces of information. Which, given that they've
 17 set a target for the API, if they still thought that
 18 that's something that they want to do is set
 19 targets, which again I'm not sure -- it depends on
 20 the purpose of the accountability system again as to 10:40AM
 21 whether you want to do that or not. That would
 22 involve then setting a target for each of these
 23 measures as well.
 24 Q. Which measures are you referring to?
 25 A. Well -- 10:41AM

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1 Q. Are you referring to any specific 10:41AM
 2 measures?
 3 A. Well, right now, I mean, if you take the
 4 API as it currently exists, it's a combination of
 5 test scores -- some are CSTs, some are Norm 10:41AM
 6 Reference. For the high schools, there's high
 7 school exit exams as well. All of these different
 8 pieces of information, all these test scores, are
 9 combined into a single number. So, starting with
 10 that. 10:41AM
 11 Now, I think as we talked about at length,
 12 there's a number of other pieces of information that
 13 should also be collected as part of the
 14 accountability system, and that information should
 15 also be reported separately, instead of trying to 10:41AM
 16 take all the pieces of information you're gonna
 17 collect and boil it down into a single score.
 18 Q. Is it your opinion that boiling it down
 19 into a single score is not useful?
 20 MS. LHAMON: Paul, the bulk of the report 10:42AM
 21 talks about the API.
 22 Are you asking separate from what he said
 23 in the report?
 24 MR. SALVATY: Yeah, I guess I am asking
 25 separate from what he said in the report. 10:42AM

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1 THE WITNESS: I'm confused. 10:42AM
 2 I mean, in the report I say -- I talk
 3 about at length how boiling it down to a single
 4 number isn't ter- -- is not very useful. How it
 5 masks patterns within schools. How it doesn't 10:42AM
 6 provide as much diagnostic information or
 7 information that's going to help schools identify
 8 where they're really doing well or where they're
 9 doing poorly.
 10 BY MR. SALVATY: 10:42AM
 11 Q. Okay. Do you have an opinion about what
 12 specifically the state should do to improve the
 13 II/USP program?
 14 A. Again, I talked before about how one of
 15 the problems I see with it is that it's a voluntary, 10:43AM
 16 and that it's not funded at a level that allows
 17 everyone that volunteers to apply for it to actually
 18 be supported through it.
 19 So I think those are probably two of the
 20 first changes. Beyond that, I don't have any other 10:43AM
 21 suggestions.
 22 MR. SALVATY: I'm sorry. Could I get that
 23 read back?
 24 Q. I thought you were talking about one
 25 thing, and then I heard -- let me just ask if you 10:43AM

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1 can clarify. 10:43AM
 2 What are the two changes you're referring
 3 to? The voluntarily nature of it, and what was the
 4 other?
 5 A. And the funding level for it. 10:43AM
 6 Q. Is it your opinion that the state should
 7 make the II/USP program mandatory, as opposed to
 8 voluntary?
 9 A. It -- it seems to me that for it to be
 10 optimally effective, it ought to be helping all the 10:44AM
 11 schools that it's designed to help. And, so, if
 12 that means you have to make it mandatory for those
 13 local schools, it seems to me that would be a step
 14 in the right direction.
 15 Q. And it's your opinion that the state 10:44AM
 16 should increase the funding level for the II/USP
 17 program?
 18 A. Again, my understanding is that one of the
 19 reasons, or the main reason that they don't fund
 20 everyone who applies for it, who chooses to apply, 10:44AM
 21 is because they don't have enough funds to fund all
 22 of them.
 23 So, again, if you want to optimally affect
 24 these or maximally affect these schools, then it
 25 seems like there's more money that's needed. 10:45AM

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1 Q. Do you have an opinion about what 10:45AM
 2 specifically the state should do to improve the
 3 Governor's performance awards program?
 4 A. No.
 5 Q. Do you have an opinion about whether the 10:45AM
 6 state's accountability system should measure teacher
 7 quality?
 8 A. There should be some type of information
 9 about teacher quality, or at least teacher
 10 qualifications, at a minimum. 10:46AM
 11 MS. LHAMON: Paul, this series of
 12 questions, you're asking for opinions that are
 13 existent in the report. I don't think this is the
 14 best use of witness's time.
 15 MR. SALVATY: Let me just respond to that. 10:46AM
 16 I don't think the report actually says --
 17 sets forth what the state should do. I think it
 18 talks about problems with the current state program,
 19 and possible things the state could do. I don't
 20 think the report sets forth what the state should 10:46AM
 21 do, and those are what my questions are trying to
 22 elicit.
 23 MS. LHAMON: The last question asked if he
 24 has an opinion about whether something should be
 25 part of the program, not about what the state should 10:46AM

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1 do about it. 10:46AM
 2 MR. SALVATY: Well, maybe my question was
 3 not good. Because I meant it -- I wanted to ask
 4 whether the state should measure teacher quality as
 5 part of its accountability system. 10:46AM
 6 Q. Does that change your answer in any way?
 7 A. I think -- no, it's basically the same
 8 answer.
 9 Q. Do you have an opinion about how the state
 10 should define a qualified teacher? 10:47AM
 11 A. I don't, no.
 12 At a minimum, a qualified teacher should
 13 be one that's meeting the state requirements for
 14 certification, I would think. But beyond that, no,
 15 I don't have an opinion. 10:47AM
 16 Q. Doesn't the state's current accountability
 17 system measure the number of fully credentialed
 18 teachers?
 19 MS. LHAMON: Which is a part of the
 20 report. Speaks for itself again. 10:48AM
 21 THE WITNESS: No. Well, it depends on
 22 what you mean by "accountability system," the
 23 state's accountability system. You mean the API and
 24 the two programs that are based on the API?
 25 MR. SALVATY: Yes. 10:48AM

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1 THE WITNESS: No. 10:48AM
 2 MR. SALVATY: Can we take 10 minutes?
 3 THE WITNESS: Yeah, sure.
 4 MR. SALVATY: Okay. Thank you.
 5 (Recess taken.) 10:48AM
 6 BY MR. SALVATY:
 7 Q. Professor Russell, let me just clarify one
 8 thing in the last question. We talked about -- I
 9 think we talked about what the accountability
 10 program is. 11:00AM
 11 I wanted to use your definition of what
 12 California's accountability program was, and that's
 13 what I tried to state for you on the record.
 14 What is your definition of California's
 15 accountability program? 11:01AM
 16 A. As it exists today?
 17 Q. Yes.
 18 A. We talked about this before, and I
 19 described it at length. It's basically API, a
 20 couple of the II/USP and a couple of the Governor's 11:01AM
 21 award programs.
 22 Q. Okay. That's what I thought. Thanks.
 23 Do you have an opinion about whether the
 24 state should measure the quality of instructional
 25 materials as part of its accountability system? 11:01AM

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1 MS. LHAMON: Asked and answered. 11:01AM
 2 THE WITNESS: Yeah. Again, in the report
 3 I talk about the value of doing that, yes.
 4 BY MR. SALVATY:
 5 Q. And do you think the state should do that? 11:02AM
 6 A. Collect that information?
 7 Q. Yes.
 8 A. Yes, I do.
 9 Q. Do you have an opinion about how the state
 10 should collect that information? 11:02AM
 11 A. Let me -- let me -- when you said "quality
 12 of instruction," I would say it more as the
 13 accessibility or availability of quality instruction
 14 of materials, as opposed to measuring the quality of
 15 the materials. 11:02AM
 16 Q. You would focus on availability rather
 17 than quality. Is that what you said?
 18 A. Well, the state already defines what
 19 quality is by making recommendations and suggestions
 20 about textbooks, and those types of things. So it's 11:02AM
 21 really the extent to which those materials that are
 22 available and -- and used in schools.
 23 Q. And -- and do you have an opinion about
 24 how the state should measure that?
 25 A. The -- again, it really depends on the 11:03AM

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1 information system that's in place and resources 11:03AM
2 that are -- that are dedicated to this. But, again,
3 I use Rhode Island as an example. They do it
4 through a couple of different methodologies. They
5 do it through surveys of teachers, and they do it 11:03AM
6 through looking at expenditures, financial
7 expenditures of the schools, as well as surveys of
8 students.
9 I'm not suggesting that that's the way
10 California should do it, but that is one method, one 11:03AM
11 approach, that could be used.
12 Q. You said the -- the approach would depend
13 on the information system that's available and
14 resources that are available?
15 A. Right. 11:03AM
16 Q. What if you -- what about under current
17 conditions? The current information system that's
18 available and with current resources?
19 MS. LHAMON: The question's vague and
20 incomplete. 11:04AM
21 THE WITNESS: Yeah, I don't know if I
22 could answer that, because I don't know enough about
23 all the resources that are available in all of these
24 schools to really make a recommendation as to what's
25 really going to be the most efficient and 11:04AM

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1 cost-effective. 11:04AM
2 BY MR. SALVATY:
3 Q. Do you have an opinion about whether the
4 state should measure the quality of facilities as
5 part of its accountability system? 11:04AM
6 MS. LHAMON: This morning when you asked
7 Professor Russell about the inputs that the state
8 should be measuring, he listed a series of inputs,
9 and already gave his answer to this and to the
10 previous questions. 11:04AM
11 MR. SALVATY: I think this is a different
12 question.
13 THE WITNESS: What's the question again?
14 MR. SALVATY: Would you mind reading it
15 back, please. 11:05AM
16 (Record read.)
17 THE WITNESS: Again, like textbooks or
18 instructional materials, I think we were talking
19 about.
20 I think that the State should facilitate 11:05AM
21 or -- facilitate a process of defining what quality
22 facilities are, and then measuring the extent to
23 which those are in place.
24 BY MR. SALVATY:
25 Q. Do you have an opinion about how the state 11:05AM

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1 should define quality facilities? 11:05AM
2 A. As I -- basically, a similar process to
3 what I described before, for -- before performing
4 any aspect of accountability, a group of people
5 should work on this. 11:06AM
6 I'm not sure who the right people in
7 California would be.
8 Q. But you don't have a definition of quality
9 facilities in mind today?
10 A. Me? 11:06AM
11 Q. Yes.
12 A. No, I'm not an expert in facilities, so,
13 no.
14 Q. Do you have an opinion about whether the
15 state should measure sanitary conditions as part of 11:06AM
16 its accountability system?
17 A. That would fall under quality facilities.
18 Q. What about number of bathrooms?
19 A. To me, that would fall under quality
20 facilities. I think that would be something that 11:06AM
21 would be defined as part of quality facilities.
22 Q. Do you know of any state accountability
23 systems that measure sanitary conditions currently
24 today?
25 A. The -- the states that I'm most familiar 11:07AM

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1 with don't really have issues, as I talked about 11:07AM
2 earlier before, major issues with those. So I don't
3 think it's a priority in those states.
4 And, so, they don't collect that as part
5 of their accountability system. 11:07AM
6 Q. How about number of bathrooms? Do you
7 know any states that measure the number of
8 bathrooms --
9 A. Same --
10 Q. -- as part of their accountability system? 11:08AM
11 A. Same response.
12 Q. How about classroom temperatures?
13 A. Same response.
14 Q. Do you have an opinion about whether the
15 state should set performance targets for schools as 11:08AM
16 part of its accountability system?
17 A. What do you mean by "performance targets"?
18 Q. Well, I think you've talked in your report
19 and in your deposition about the API 800 target?
20 A. Right. 11:08AM
21 Q. Would you call that a performance target?
22 A. It's an outcome performance target, yeah.
23 Q. Do you have an opinion about whether the
24 state should set some type of outcome performance
25 target as part of its accountability system? 11:09AM

1 A. Again, I'd -- I've talked about it at 11:09AM
 2 length, how I don't see the API as being terribly
 3 useful because it boils everything down to a single
 4 measure.
 5 I would think the state should move the 11:09AM
 6 multiple measures that are reported independently,
 7 and that for each of them, you would want some type
 8 of performance target set, and that would apply to
 9 inputs, as many of the inputs as well.
 10 Q. Input targets? 11:09AM
 11 A. Yes. As well as out -- output targets.
 12 Q. Can you give some examples of the types of
 13 targets you're talking about?
 14 A. Well, it's a very good -- again, I use
 15 this example in the report, and we talked about this 11:09AM
 16 before. Emergency credentialed teachers. It seems
 17 to me that schools should aim to have 10 percent, at
 18 a max, zero. You know, I'm not the one to make the
 19 determination as to what the number should be. But
 20 there should be a target set that schools should try 11:10AM
 21 to attain in terms of the percent of emergency
 22 credentialed teachers.
 23 There should be standards set for what a
 24 quality facility is, and that then would define the
 25 targets. 11:10AM

1 There should be targets set for the 11:10AM
 2 availability of instructional materials.
 3 There should be targets set again, you
 4 know, for performance levels on these -- on various
 5 tests as well. 11:10AM
 6 Q. Do you have an opinion about whether those
 7 targets should be applied statewide, or in your
 8 view, should the targets differ from school to
 9 school?
 10 Does that make sense? 11:10AM
 11 A. It --
 12 Q. Like, you gave an example of the emergency
 13 credential, either 10 percent or zero percent,
 14 some -- some target that schools should attempt to
 15 reduce the number of emergency credentials below a 11:11AM
 16 certain target.
 17 A. Right. Right.
 18 Q. In your opinion, should the state have a
 19 target for emergency credentialed teachers that
 20 should apply to all schools? 11:11AM
 21 A. Yeah, I think so. Yeah. And we're
 22 basically talking about opportunity to learn
 23 standards. We should have a common opportunity to
 24 learn standards, just as we have common outcome for
 25 performance standards for students. 11:11AM

1 Q. You talked about outcome performance 11:11AM
 2 targets. What about growth targets?
 3 Do you have an opinion about whether the
 4 state should set growth targets as part of its
 5 accountability system? 11:12AM
 6 A. Again, in the report, I talk at length
 7 about how I think it's important to be sure that the
 8 requisite inputs or opportunity to learn standards
 9 are in place before you start looking at outcomes.
 10 I would think that once you have those 11:12AM
 11 opportunity to learn standards in place, it's
 12 appropriate -- as I said, it's appropriate then to
 13 start looking at the extent to which you're reaching
 14 your outcome targets and that you would expect
 15 schools to be making progress towards their targets. 11:12AM
 16 I'm less convinced that it's useful to
 17 have a uniform standard for the amount of growth all
 18 schools should make, again because I believe it's
 19 more useful to have schools actively reflecting on
 20 what they're doing and making changes, rather than 11:13AM
 21 trying to guarantee they have so much growth every
 22 year. Because, again, as I talked about at length
 23 on the program, those type of targets can lead to
 24 undesir- -- they don't always, but they can lead to
 25 undesirable practices that lead to attainment of the 11:13AM

1 short-term targets, but not necessarily long-term 11:13AM
 2 education and benefit practices.
 3 Q. Do you have an opinion about who should be
 4 responsible for setting outcome performance targets,
 5 or growth targets? 11:13AM
 6 A. You know, again, it's the same process.
 7 It shouldn't be any one person, but a
 8 collection of people. And it's gonna depend -- and
 9 I just don't know California politics well enough to
 10 know who the right people, players, are for that. 11:14AM
 11 Q. Do you have an opinion about whether, as
 12 part of its accountability system, the state should
 13 reward schools for meeting outcome growth targets?
 14 A. I don't have an opinion that's based on
 15 research that I've done on that. I mean, I have my 11:14AM
 16 own personal opinion, but I don't think that's --
 17 that's relevant.
 18 Q. What is your own personal opinion on it?
 19 A. I don't think it's relevant.
 20 Q. Are you willing to -- 11:14AM
 21 A. Can I say that?
 22 MS. LHAMON: You can say that, but you
 23 also can answer the question.
 24 THE WITNESS: I can answer the question.
 25 Okay. 11:15AM

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1 (Laughter.) 11:15AM
 2 THE WITNESS: Personally, it's not based
 3 on any systematic research that I did. I just don't
 4 think that's necessarily a good use of resources.
 5 But, again, I haven't done or seen research to 11:15AM
 6 support that.
 7 BY MR. SALVATY:
 8 Q. Do you have an opinion about whether, as
 9 part of its accountability system, the State should
 10 punish schools for failing to meet outcome 11:15AM
 11 performance targets?
 12 A. I think rather than punish, they should be
 13 working with the schools to -- to try to make
 14 improvements in what the schools are doing. You
 15 know, if that's a punishment, then I -- you know, if 11:15AM
 16 that's what you're defining as a punishment, then,
 17 yes, it's okay, but I don't see that as a
 18 punishment.
 19 Q. Let me refer you to Page 42 of your
 20 report. And on the second paragraph, you pose the 11:16AM
 21 question: "Why is test-based accountability
 22 failing"?
 23 You state: "The answers are numerous."
 24 What do you mean by "test-based
 25 accountability" in this context? 11:17AM

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1 A. I have to read the paragraph before. 11:17AM
 2 Q. Okay. Take your time.
 3 A. It means accountability systems that are
 4 focusing primarily and usually solely on changes
 5 in -- in student learning as measured by test 11:17AM
 6 scores. So it's really looking at changes in test
 7 scores.
 8 Q. Using that definition, is it your opinion
 9 that test-based accountability is failing?
 10 MS. LHAMON: Well, the report speaks for 11:18AM
 11 itself.
 12 THE WITNESS: Yeah, I think in many, many
 13 places, it is not -- is not having any impacts that
 14 I believe people want it to have.
 15 BY MR. SALVATY: 11:18AM
 16 Q. Okay. You anticipated my question.
 17 Where do you think test-based
 18 accountability is failing? Are you talking
 19 nationally, or do you have something more specific
 20 in mind? 11:18AM
 21 A. Well, I mean, you can't really talk
 22 nationally because there isn't a national test-based
 23 accountability. You could argue no child left
 24 behind is moving towards that, but it's not
 25 implemented fully yet. 11:18AM

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1 So really, it's at the state level. And 11:18AM
 2 where it's failing, I believe, is at the school
 3 level, and it's failing to help schools, all
 4 schools, improve their practices which, in turn,
 5 should be improving student learning. 11:18AM
 6 Q. What's the basis for your opinion that
 7 test-based accountability is failing at the school
 8 level?
 9 A. Again, above it, I said a number of
 10 studies. You know, I also cite the National Board 11:19AM
 11 study that I think you had been sent an advanced
 12 copy of.
 13 And my own experience is in a couple of
 14 states, Massachusetts in particular.
 15 Q. Okay. So are you referring to the Amrein 11:19AM
 16 & Berliner study, the Koretz & Barron study and the
 17 Haney study?
 18 A. There's other -- again, last time we
 19 talked about a number of other studies. I think I
 20 referenced the Marylee Smith study done in the early 11:20AM
 21 '90s.
 22 I think I referenced -- I think in here I
 23 also talk about a study by Shepherd.
 24 You know, it's a body of research that's
 25 been conducted more or less over 10 to 15 years. 11:20AM

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1 And just to be clear, it's not that it's 11:20AM
 2 failing in all schools. Some schools it is having
 3 positive impacts on, but there's other schools that
 4 it's just not having the impacts that people hoped
 5 they would have. 11:20AM
 6 Q. Can you elaborate on that a little more?
 7 What are you talking about?
 8 A. Well, there's schools that are realizing
 9 increases in their test scores, without -- in some
 10 cases, making any real changes to instructional 11:21AM
 11 practices, or inputs, except for things that
 12 directly affect the test scores.
 13 So in those schools, oftentimes what you
 14 see is an error in the curriculum of moving away
 15 from using certain types of resources like 11:21AM
 16 technology. So that you see improvements in test
 17 scores, but not really generalized improvement in
 18 learning, particularly across the full spectrum of
 19 the curriculum.
 20 Q. Are you aware of any research that 11:21AM
 21 suggests that test-based accountability is
 22 succeeding; meeting people's expectations?
 23 A. We talked last time about the one Hanushek
 24 study that tries to make the case that certain types
 25 of accountability systems are -- have led to larger 11:21AM

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1 increases in test scores. But, again, a sole focus 11:22AM
 2 on changes in test scores I don't think is terribly
 3 useful, because the point of these systems, it's not
 4 to improve test scores, it's to improve learning
 5 through an impact on practices; inputs. 11:22AM
 6 And so you can see -- I mean, a lot of the
 7 studies -- the Amrein & Berliner, Koretz & Barron,
 8 Haney studies -- all show you should have increases
 9 in test scores, but not necessarily increases in
 10 learning or -- or desirable changes in the 11:22AM
 11 structural practices.
 12 Q. Other than the Hanushek study you've
 13 mentioned, are you aware of any research that
 14 suggests that test-based accountability is
 15 succeeding? 11:22AM
 16 A. Systematic research, no, I haven't seen
 17 anything else.
 18 Again, there's pockets where it is having
 19 positive impacts, and I've seen studies that have
 20 tried to look at -- at where it seems to be having 11:23AM
 21 positive impacts and where it's not.
 22 Q. What studies are you referring to there?
 23 A. Well, the National Board study, for one,
 24 tries to disentangle that a little bit.
 25 Q. Any others? 11:23AM

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1 A. I can't think of anything else off the top 11:23AM
 2 of my head.
 3 Q. Let me turn to Page 47 of your report,
 4 Section 7.2, "Learning From Other States."
 5 You talk about aspects of Connecticut and 11:24AM
 6 Rhode Island's accountability systems and a
 7 comprehensive system proposed for Massachusetts
 8 serving as -- as good models for California.
 9 Is that right?
 10 A. Yes, I do. 11:25AM
 11 Q. Let me focus on Connecticut.
 12 Why do you think aspects of Connecticut --
 13 Connecticut's accountability system serve as a good
 14 model for California?
 15 MS. LHAMON: Do you mean separate from 11:25AM
 16 what's already stated in the report?
 17 BY MR. SALVATY:
 18 Q. No. I mean including what's in the
 19 report.
 20 A. Well, in the report, I talk about it -- 11:25AM
 21 and I think last time we talked about this as
 22 well -- that there's a couple -- couple aspects that
 23 Connecticut I think is attractive.
 24 One is that it's a system that's been in
 25 place for a long time. There's been a long-term 11:25AM

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1 commitment to maintaining stability within that 11:25AM
 2 system.
 3 Second is the -- the close alignment.
 4 When they first introduced and developed a system,
 5 they intentionally developed tests that were aligned 11:25AM
 6 with the state framework standards. That was done
 7 from the beginning.
 8 They also attempt to collect information.
 9 They do collect information on outcomes besides test
 10 scores. So graduations, the rates, for example. 11:26AM
 11 And I think those, off the top of my head.
 12 I mean, there's also a fundamental belief that the
 13 sole focus shouldn't be on these outcome measures.
 14 And that's explicitly stated and emphasized
 15 repeatedly. 11:26AM
 16 Q. And one question I had: When you use the
 17 term "good models," I wondered if you had something
 18 in mind about Connecticut that you thought was
 19 particularly analogous to California, as opposed to
 20 the system has features that you think are -- are 11:26AM
 21 good features.
 22 I wondered if there was anything else that
 23 led you to your opinion that -- that Connecticut
 24 would serve as a good model for what California
 25 should do? 11:27AM

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1 A. When I said -- 11:27AM
 2 MS. LHAMON: Objection. Vague and
 3 overbroad.
 4 THE WITNESS: I said aspects of the
 5 programs. 11:27AM
 6 MR. SALVATY: I didn't mean that, I didn't
 7 mean to --
 8 THE WITNESS: So I'm not saying that
 9 any -- that California -- I'm not implying that
 10 California should replicate what Connecticut is 11:27AM
 11 doing, or necessarily should replicate what Rhode
 12 Island is doing.
 13 Again, I've talked again at length about
 14 the needs for these systems to meet purposes,
 15 clearly defined purposes. It's unlikely that 11:27AM
 16 California's purpose is going to be identical to
 17 either of these states. Any of these three states.
 18 But there's aspects of them that I think are likely
 19 to be useful if they're replicated.
 20 BY MR. SALVATY: 11:28AM
 21 Q. Do you have an opinion about which
 22 features from Connecticut's accountability system
 23 should be incorporated into California's
 24 accountability program?
 25 A. Yeah, I mean, it's everything that is 11:28AM

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1 basically described here, and I just said. I mean, 11:28AM
 2 the notion of taking time to determine what it --
 3 what it is you're trying to do with your system,
 4 developing measures that are aligned with your
 5 standards of frameworks. Incorporating additional 11:28AM
 6 pieces of information to that system.
 7 You know, that's basically everything that
 8 I talk about in this page, page-and-a-half.
 9 MS. LHAMON: By "this page-and-a-half,"
 10 you mean 48 to 49 in the report. 11:28AM
 11 THE WITNESS: Yeah, I guess 40 -- yeah,
 12 48, 49.
 13 BY MR. SALVATY:
 14 Q. Do you know how many public schools are in
 15 Connecticut? 11:29AM
 16 A. I don't off the top of my head.
 17 Q. Do you know how many students are in
 18 public schools in Connecticut?
 19 A. No. Again, I don't know off the top of my
 20 head. 11:29AM
 21 Q. Do you know how many EL students there in
 22 Connecticut?
 23 A. No. I mean, that's data that's
 24 accessible. I don't memorize that stuff.
 25 Q. Did you look at that data as part of your 11:29AM

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1 work in this case? 11:29AM
 2 A. Not -- I don't see it's relevant to the
 3 case, no.
 4 Q. You say on Page 48 that, "Connecticut's
 5 state assessment system has been in place since 11:29AM
 6 1986."
 7 What do you mean that it's been in place
 8 since 1986?
 9 A. Just that, that it's -- it was established
 10 in '86, and has been in place -- there's been slight 11:30AM
 11 modifications over time to it. But, basically, the
 12 same system, same approach, has been in place for a
 13 long time.
 14 Q. You said there have been slight changes to
 15 the system since 1986? 11:30AM
 16 A. Yeah. I mean, over time, there's --
 17 there's been slight changes.
 18 Q. What changes have there been to the system
 19 since 19- --
 20 A. I couldn't describe them off the top of my 11:30AM
 21 head. I just know that there's been slight
 22 modifications to the system.
 23 Q. Have there been any fundamental changes to
 24 the system since 1986?
 25 A. No. I mean, not that I would consider 11:31AM

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1 fundamental. 11:31AM
 2 Q. Has the system used the same tests
 3 throughout that period?
 4 A. I couldn't say for sure.
 5 I think there has been some slight changes 11:31AM
 6 to the tests over time. In these testing programs,
 7 it's common to make modifications to the test as --
 8 as schools change and improve. But the changes have
 9 not occurred -- they've occurred on -- in nonregular
 10 periods, so it's not like every year there's a 11:31AM
 11 change.
 12 It's been every -- again, I don't know
 13 exactly what the changes are off the top of my head,
 14 but they've occurred every four, five, six years, as
 15 opposed to every year. And there have been more 11:31AM
 16 adjustments rather than outright changes.
 17 Q. What is -- what in your mind is the
 18 difference between adjustments and outright changes?
 19 Are you able to explain that?
 20 A. Yeah. I mean, for example, moving from a 11:32AM
 21 Norm Reference to a Criterion Reference Test would
 22 be a -- a change, as opposed to adding a new
 23 section, or expanding the contract coverage of a
 24 Criterion Reference Test. That would be an
 25 adjustment. Changing the performance standard would 11:32AM

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1 be an adjustment. 11:32AM
 2 Q. This mentions two statewide tests, the CMT
 3 and the CAPT. Is that right?
 4 A. Yeah.
 5 Q. Has Connecticut's system used the CMT 11:32AM
 6 since 1986?
 7 A. I'd have to -- I'd have to check to see if
 8 they've used the same test. I don't know off the
 9 top of my head.
 10 Q. How about the CAPT? Has Connecticut 11:33AM
 11 system used the CAPT since 1986?
 12 A. I'd have to check. I don't know.
 13 If it used -- I don't know if they've used
 14 the same test.
 15 Q. Do you know how the CMT test was 11:33AM
 16 developed?
 17 A. I don't know the details of how it was
 18 developed, no.
 19 Q. How about the CAPT test? Do you know how
 20 that was developed? 11:33AM
 21 A. No, besides -- no, I don't know exactly
 22 how it was developed, no.
 23 Q. It says:
 24 "Both the CMT and the CAPT are
 25 criterion reference tests and use 11:34AM

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1 multiple choice, grid-in open-ended 11:34AM
 2 essay and performance-based items to
 3 capture student knowledge of
 4 Mathematics, Reading, Writing and
 5 Science." 11:34AM
 6 Do you see that?
 7 A. Yes.
 8 Q. What does the term "grid-in" refer to?
 9 A. It's like a -- it's an open-ended item.
 10 But it's not open-ended in the sense that you're 11:34AM
 11 writing words.
 12 It's -- so, for example, you may have a
 13 table of numbers and two of them are missing, and
 14 you have to write in the right numbers. So it's
 15 that type of -- it's an open-ended item, but it's 11:34AM
 16 not open-ended, in the sense of requiring you to
 17 write a passage.
 18 Q. And then you -- the next word is
 19 "open-ended." Is grid-in a subset of open-ended
 20 test questions? 11:35AM
 21 A. Yeah. Yeah. I mean, you could call an
 22 essay a performance item and a grid-in all
 23 open-ended items.
 24 Q. Do you know how many essays are used on
 25 this CMT? 11:35AM

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1 A. I don't -- I don't know off the top of my 11:35AM
 2 head.
 3 Q. How about the CAPT?
 4 A. I don't know off the top of my head.
 5 Q. Do you know what percentage of either test 11:35AM
 6 is multiple choice, as opposed to these other types
 7 of questions, grid-in, open-ended, essay and
 8 performance-based items?
 9 A. It varies across the tests. And I don't
 10 know the exact percentages for any of them off the 11:35AM
 11 top of my head.
 12 Q. What is a performance-based item?
 13 A. You could call an essay a
 14 performance-based item, in that you have to produce
 15 some kind of product. Sometimes it's conducting a 11:36AM
 16 science experiment, and then, you know, reporting
 17 results. But it's -- it's usually an item in which
 18 you have to actually perform something or create
 19 something, a product. There's a wide variety of
 20 performance-type items, performance-based items. 11:36AM
 21 Q. How are the -- let me take them one at a
 22 time. How is the CMT test scored?
 23 And that's not a very clear question.
 24 Who -- who scores the test, the CMT test?
 25 MS. LHAMON: Do you mean who personally, 11:36AM

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1 or is it the state, or is it some outside entity? 11:36AM
 2 MR. SALVATY: Either/or. Yeah. Who --
 3 THE WITNESS: I don't know -- I don't know
 4 for sure if the state has a contract with an outside
 5 vendor that's scoring these or not. I'm not sure 11:36AM
 6 how they're doing it. I suspect that's what they're
 7 doing, but I don't know for sure if that's the way
 8 it's done.
 9 BY MR. SALVATY:
 10 Q. Is that true for the CMT and the CAPT? 11:37AM
 11 A. Again, I don't know. I'm assuming that it
 12 is. They probably have the same contractor, but I
 13 really don't know.
 14 Q. Do you know how the costs of administering
 15 Connecticut's test compare to the costs of 11:37AM
 16 administering tests in California?
 17 A. No.
 18 Q. Toward the bottom of Page 48, you refer to
 19 Connecticut's five-year plan. You say it:
 20 ". . .outlines several complementary 11:37AM
 21 objectives: curriculum development
 22 through statewide frameworks,
 23 student assessment, teacher quality,
 24 accountability, equalization of
 25 school resources, targeted 11:38AM

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1 categorical aid for the state's 11:38AM
 2 neediest districts and efforts to
 3 reduce racial, ethnic and economic
 4 isolation."
 5 Do you see that? 11:38AM
 6 A. Uh-huh.
 7 Q. Do you have an opinion about how those
 8 objectives differ from California's objectives, in
 9 connection with its assessment system?
 10 MS. LHAMON: The question's broad. Vague. 11:38AM
 11 THE WITNESS: I'm not sure I really
 12 understand the question.
 13 BY MR. SALVATY:
 14 Q. In your opinion, does Connecticut have
 15 different objectives with respect to its 11:38AM
 16 accountability system than California?
 17 A. I -- the -- I'm having trouble with the
 18 question, because it -- this isn't necessarily an
 19 accountability plan, Connecticut's state education
 20 plan. Accountability is part of that process. 11:39AM
 21 Q. Okay.
 22 A. I'm not familiar with California's larger
 23 educational plans, so I couldn't -- I couldn't
 24 really compare the two.
 25 Q. Okay. All right. Let me turn to Rhode 11:39AM

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1 Island, Page 49. 11:39AM
 2 First, do you know how many public schools
 3 there are in Rhode Island?
 4 A. No, not off the top of my head.
 5 Q. How about how many students? 11:40AM
 6 A. No, not off the top of my head.
 7 Q. Does Rhode Island have a large EL student
 8 population?
 9 MS. LHAMON: Vague as to "large."
 10 THE WITNESS: There's a substantial number 11:40AM
 11 of EL students. I don't know who -- what it is you
 12 mean by "large," but there is a substantial number
 13 in Rhode Island.
 14 BY MR. SALVATY:
 15 Q. Is it comparable to the number of 11:40AM
 16 percentages in California?
 17 A. Not -- definitely not the number.
 18 Q. How about percentage?
 19 A. I -- I'd have to look at that. I don't
 20 know. 11:40AM
 21 Q. Do you have an opinion about which
 22 features from Rhode Island's accountability system
 23 should be incorporated into California's
 24 accountability program?
 25 A. Yeah. I mean, we've talked about this 11:41AM

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1 several times. You know, it's the notion of 11:41AM
 2 collecting the inputs, asking schools to look at the
 3 relationship between the inputs and the outputs;
 4 setting goals. Each school setting goals that are
 5 not necessarily specific to changes in student 11:41AM
 6 learning as measured by tests; the state using
 7 information that's collected from the accountability
 8 system to try and inform state-level policy and
 9 asset allocations and programs that they offer
 10 districts. 11:41AM
 11 States working with the schools, which is
 12 implicit in the last point, I guess.
 13 But, you know, I'd say those are the large
 14 issues that I think California should move towards.
 15 I mean, I guess the other thing that's 11:42AM
 16 interesting in Rhode Island is the attempt to
 17 coordinate -- forget the New England -- basically,
 18 the organization that accredits schools. They
 19 attempt to coordinate the school's review process
 20 with accreditation process so it's not seen as two 11:42AM
 21 separate pieces, which it seems California might be
 22 able to do with the -- the WASC.
 23 I don't think I talk about that in here.
 24 That's another feature that I do.
 25 Q. You say here that Rhode Island's current 11:42AM

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1 state assessment system was drafted in 1996 and 11:42AM
 2 signed into law in 1998. Is that right?
 3 A. Yeah, I believe that's correct.
 4 Q. Do you consider Rhode Island's system to
 5 be a stable system? 11:43AM
 6 A. Since it's been implemented, yeah, it's
 7 been pretty stable.
 8 Q. Have there been any changes to the system
 9 since it was implemented?
 10 A. There's -- yeah, there's been like slight 11:43AM
 11 modifications. I think some other survey
 12 instruments have been tweaked.
 13 I think they've tweaked the way that they
 14 do the school review process, but nothing ma --
 15 there's been no major changes. 11:43AM
 16 The only major change that may have
 17 happened is the introduction of a health test.
 18 I don't remember if that was introduced in
 19 '98, or if it came one or two years later. I
 20 don't -- just don't -- I don't recall when that came 11:43AM
 21 in.
 22 Q. You refer to the wide scope of the
 23 frameworks in Rhode Island.
 24 What do you mean by that?
 25 A. Well, the frameworks in Rhode Island -- 11:44AM

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1 they've adopted the New Standards Reference Exam, 11:44AM
 2 and the New Standards standards, which focus in more
 3 broadly on understanding and reasoning, as opposed
 4 to listing a discrete set of skills, facts.
 5 So in that sense, it's what I mean by the 11:44AM
 6 wide -- what was the term I used? Wide spectrum.
 7 Q. "Wide scope."
 8 A. Wide scope, Yeah.
 9 Q. Have you compared the quality of the
 10 frameworks in Rhode Island with those in California? 11:45AM
 11 A. No, I haven't, no. Not systematically.
 12 Q. You mentioned "field service team
 13 familiarity with the school and district. . ."
 14 Do you see that? It's a quote from the
 15 Rhode Island Board of Education 2001. 11:45AM
 16 A. Yes.
 17 Q. What is this field service team aspect of
 18 Rhode Island's accountability program?
 19 A. Again, it's part of just the school review
 20 process. There's -- there's a group from the state 11:46AM
 21 that will go in and work with schools when they're
 22 doing their review process, which occurs every five
 23 years.
 24 Q. Does it go to every school in the state?
 25 A. When they're doing the process, I believe 11:46AM

1 it does, yeah. It's not that -- it's not one group 11:46AM
 2 of people, it's a series of groups, if you will, a
 3 collection of groups.
 4 Q. Do you know how many groups?
 5 A. I don't know off the top of my head. 11:46AM
 6 Q. Do you know how many people are part of
 7 the state's field service team?
 8 A. I can't remember. I sat in on a meeting
 9 one time where they're working on a school, but that
 10 was four or five years ago, and I don't remember how 11:46AM
 11 many people were on that team.
 12 Q. And a team visits every school once every
 13 five years?
 14 A. Well, a team -- a school goes through a
 15 review process, so that parts -- members of the 11:47AM
 16 team -- again, it may only be one person from the --
 17 the collection of the team that's actually working
 18 with the school, works with the school as they're
 19 developing -- as they're going through this review
 20 process and developing their -- their five-year 11:47AM
 21 plan, if you will.
 22 Q. Do you have an opinion about whether this
 23 five-year review plan that you're referring to would
 24 be something useful to do in California?
 25 A. Yeah, I think it would. It's something 11:47AM

1 similar. And not necessarily exactly what they're 11:47AM
 2 doing, but something similar to that would -- I
 3 think would be useful, yes.
 4 Q. You think it would be feasible to do
 5 something like that in California? 11:48AM
 6 A. Yes. Interestingly, I had a conversation
 7 with the acting assessment accountability director
 8 in Rhode Island and actually asked her that
 9 question. And she and I both felt like it is
 10 something that could be feasible. 11:48AM
 11 It had to obviously be scaled up because
 12 Rhode Island is smaller. But I don't see why you
 13 couldn't do it.
 14 Q. Who's the -- who is this that you spoke
 15 to? 11:48AM
 16 A. Maryanne Snyder. I think it's with a "y."
 17 MS. SPANGLER: Maryanne or Marian?
 18 THE WITNESS: Maryanne.
 19 BY MR. SALVATY:
 20 Q. When did this conversation take place? 11:48AM
 21 A. Actually, this morning.
 22 Q. Was it by telephone or --
 23 A. Yeah, I talked to her on the telephone. I
 24 was calling to find out if we got a grant. And I
 25 said I was in California, and -- 11:49AM

1 MR. ROSENBAUM: She's in the other room. 11:49AM
 2 THE WITNESS: She's bringing my money
 3 already?
 4 (Laughter.)
 5 MS. SPANGLER: Is it time? 11:49AM
 6 MR. SALVATY: Now is a fine time to break
 7 for lunch.
 8 THE WITNESS: To go get my money.
 9 All right. See you all.
 10 (The luncheon recess was taken at 11:49AM
 11 11:49 A.M.)
 12
 13
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 23
 24
 25

1 APPEARANCES OF COUNSEL:
 2 (P.M. SESSION)
 3
 4 PAUL SALVATY, ESQ.
 5
 6 MARK D. ROSENBAUM, ESQ.
 7
 8 KARA READ-SPANGLER, ESQ.
 9
 10 ABE HAJELA, ESQ.
 11
 12 JOHANNA R. SHARGEL, ESQ.
 13
 14
 15 ALSO PRESENT:
 16
 17 SOPHIE A. FANELLI
 18 (Research Fellow, ACLU Foundation
 19 of Southern California)
 20
 21 REPORTED BY:
 22
 23 KATHY F. KELLOGG, CSR No. 6591
 24
 25

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1 (The deposition of MICHAEL RUSSELL, Ph.D.,
 2 was reconvened at 1:42 P.M.)
 3
 4 MICHAEL RUSSELL, Ph.D.,
 5 the witness, having been previously administered an
 6 oath in accordance with CCP Section 2094, testified
 7 further as follows:
 8
 9 EXAMINATION (CONTINUING)
 10 BY MR. SALVATY:
 11 Q. All right, Professor Russell, we were 1:42PM
 12 talking about Page 49 of your report.
 13 It says in the report the State of Rhode
 14 Island "allows schools and districts to set three
 15 year targets for their academic growth, with input
 16 from the Department of Education." Is that right? 1:43PM
 17 A. Yes.
 18 Q. Can you tell me how that process works?
 19 A. Yeah. Basically, through the review of
 20 all the -- the different data that's collected as
 21 part of the accountability system, schools will set 1:43PM
 22 three-year targets that are related to student
 23 learning in some way, but they aren't necessarily
 24 outcome measures. In fact, in most cases they're
 25 not outcome measures. So what I mean by that is

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1 they set targets around things that they believe 1:43PM
 2 will impact outcome measures and which they believe 1:43PM
 3 need to be or should be improved in their schools or
 4 in their districts.
 5 Those plans, those goals, if you will, go
 6 up to the state, and then through a review process, 1:44PM
 7 there is -- sometimes there's some feedback, some
 8 clarification, that -- that the state will ask. And
 9 so it's that type of process.
 10 Q. Is this part of the -- the five-year
 11 review plan process? 1:44PM
 12 A. No, the five-year review plan is much more
 13 comprehensive.
 14 Q. Do -- are these targets set by schools or
 15 districts or both?
 16 A. The ones I'm most familiar with are at the 1:44PM
 17 school level. Based on my reading of the
 18 description of the system, I believe there's some
 19 district targets set as well, but the ones I'm
 20 really most familiar with are at the school level.
 21 Q. Does the state set any targets for 1:45PM
 22 academic growth for the schools --
 23 MS. LHAMON: Calls for speculation.
 24 BY MR. SALVATY:
 25 Q. -- in Rhode Island?

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1 A. I'm trying to remember if they specify a 1:45PM
 2 specific percentage of students performing at 1:45PM
 3 different levels. And I don't -- I don't recall.
 4 I can't remember what -- how that works.
 5 I know that they do encourage schools to move
 6 students from one level to the next, but I just off 1:45PM
 7 the top of my head can't remember if they specify
 8 what percentage of kids are supposed to be at each
 9 level, or if that's really defined by the school
 10 level -- at the school level.
 11 Q. Do you have an opinion about whether it's 1:45PM
 12 better to have schools set targets versus having the
 13 state set targets?
 14 A. Again, this isn't based on empirical
 15 research, but my own belief is the more you can get
 16 the school involved in believing and accepting the 1:46PM
 17 targets and goals, the -- the more likely you're
 18 going to have meaningful changes in what happens in
 19 the schools.
 20 Q. Does the state take any action depending
 21 on whether the schools meet their targets? 1:46PM
 22 A. What do you mean --
 23 MS. LHAMON: For the state of Rhode
 24 Island?
 25 MR. SALVATY: Yes.

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1 THE WITNESS: What do you mean by 1:46PM
 2 "action"? 1:46PM
 3 BY MR. SALVATY:
 4 Q. Well, I'm trying to find out, what happens
 5 if the schools don't meet their three-year targets
 6 for academic growth in Rhode Island? 1:47PM
 7 MS. LHAMON: Calls for speculation.
 8 Answer if you know.
 9 THE WITNESS: Yeah, I don't know off the
 10 top of my head if there's any -- I don't know off
 11 the top of my head what exactly happens. 1:47PM
 12 I do know that there is a cluster of
 13 districts that are considered -- I can't remember
 14 the term they use in Rhode Island, but they're
 15 essentially high-need districts. They call them --
 16 there's seven, I believe, that they're working with 1:47PM
 17 closely. And I don't -- I don't believe it's
 18 because they haven't met their -- the school
 19 districts haven't met their growth targets, it's
 20 just that they have a number of needs that have
 21 become clear through the various data that are 1:47PM
 22 collected.
 23 BY MR. SALVATY:
 24 Q. It says, "Growth is reported as a three
 25 year rolling average."

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1 What does that mean? 1:48PM
 2 A. They take scores from across three years, 1:48PM
 3 and report the average over three years, and then
 4 it's next -- you know, the next three years it --
 5 it's a comparison.
 6 Q. Are these test scores you're referring to? 1:48PM
 7 A. Yeah, test scores, yes.
 8 Q. Do you know what's -- what test does Rhode
 9 Island use?
 10 A. The New Standard Reference Exam. At least
 11 that's what they use for their math and English 1:48PM
 12 language arts. They also have a health test. And I
 13 don't recall who produces that.
 14 Q. What type of test is the New Standards
 15 Reference Exam? By that, I mean is it a multiple
 16 choice test or -- 1:49PM
 17 A. It's a combination of item formats.
 18 Q. What are the item formats?
 19 A. There's -- I believe there's some multiple
 20 choice, there's some open-ended, and there's some
 21 more extended open-ended I say to the questions. 1:49PM
 22 Q. And has that test been used since 1998 in
 23 Rhode Island?
 24 A. I believe it may have been implemented --
 25 used before then, but it definitely has been used

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1 since '98. I don't remember exactly when it began. 1:49PM
 2 Q. Has it been changed at all or modified 1:50PM
 3 since 1998, as far as you know?
 4 A. To the best of my knowledge, it hasn't,
 5 but I don't know for sure.
 6 Q. At the top of the next page, you talk 1:50PM
 7 about:
 8 "If a school falls short of their
 9 goals, 'a series of support and
 10 intervention strategies' are put
 11 into effect." 1:50PM
 12 Do you see that?
 13 A. Yeah.
 14 Q. What -- what support and intervention
 15 strategies are put into effect?
 16 A. Well, these -- the big seven or whatever 1:50PM
 17 they call the seven districts provide a good
 18 example, where the state has been visiting each of
 19 those districts, helping them look at their data
 20 critically, helping them identify areas that are --
 21 that are really in need of improvement; helping them 1:50PM
 22 think through strategies for improving those --
 23 those issues as well.
 24 In some cases, I believe they're
 25 developing, I don't know, professional development

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1 if that was needed. Basically, they tried to 1:51PM
 2 develop common strategies if there's a common need 1:51PM
 3 across these districts. So it's those types of
 4 interventions.
 5 Similarly, they -- this isn't really --
 6 well, this isn't necessarily a result of schools 1:51PM
 7 falling short. But they do a similar analyses
 8 across all the schools to see if there's common
 9 needs, and then they may develop a program to meet
 10 those needs.
 11 Q. You talk about on Page 50 the Rhode Island 1:52PM
 12 Statistical Model. And does -- does the statistical
 13 model allow for a comparison of schools with similar
 14 characteristics? Is that what it does?
 15 A. Yeah, it -- I guess you could -- you could
 16 do that. They -- they don't use the model for an 1:52PM
 17 accountability purpose in the sense of rating
 18 schools or making judgments about schools. And, in
 19 fact, they've raised concerns about the usefulness
 20 of the model for extreme schools, for very
 21 high-performing and very low-performing schools. 1:53PM
 22 So they really use it is more as a
 23 research tool, to try to understand if -- if there's
 24 some factors for those schools that are -- in
 25 students that are in the middle, if there's some

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1 factors that seem to be contributing to the 1:53PM
 2 learning. Again, they use that to inform 1:53PM
 3 state-level programs, whether it's professional
 4 development, or some other type of intervention that
 5 the state might offer.
 6 Q. It says: 1:53PM
 7 "This statistical exercise levels
 8 the playing field between schools
 9 that serve children with very
 10 different levels of challenge by
 11 adjusting for those levels or 1:53PM
 12 characteristics."
 13 How does that happen?
 14 A. Basically, it's -- I don't know if
 15 you're -- I think we talked about the Tennessee
 16 value-added model last time. It's similar in 1:53PM
 17 concept, in that you're taking into account, or
 18 factoring out, if will, various background variables
 19 to get a prediction of what that -- what a student's
 20 score would be controlling for these background
 21 variables that have been shown to correlate with 1:54PM
 22 performance.
 23 So you can then look at differences
 24 between the predicted and the actual performance.
 25 I'm not sure. I don't know the details of

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1 the exact model, but that's the basic principle. 1:54PM
 2 Q. You also talk about the SALT survey and 1:55PM
 3 the SALT self-study.
 4 A. Uh-huh.
 5 Q. Do you have an opinion about whether
 6 something comparable to the SALT survey could be 1:55PM
 7 used in -- as part of California's accountability
 8 system?
 9 MS. LHAMON: The question's vague.
 10 THE WITNESS: Yeah, I don't see why it
 11 couldn't be used. It's -- it's essentially a 1:55PM
 12 commercially available tool. It's been modified
 13 slightly for Rhode Island, but I don't see why they
 14 couldn't -- couldn't use it.
 15 BY MR. SALVATY:
 16 Q. Do you know what the costs are of -- 1:55PM
 17 A. I don't.
 18 Q. -- of using it?
 19 A. I don't know.
 20 Q. I think we -- we spoke in the first couple
 21 of days of your deposition about the proposed 1:56PM
 22 comprehensive accountability system in
 23 Massachusetts.
 24 What is the -- what's the current status
 25 of this proposed system?

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1 A. In Massachusetts, it's pretty much 1:56PM
 2 dormant. One of the reasons I was calling Maryanne 1:56PM
 3 this morning was to find out if federal funding and
 4 the enhancement of state assessment programs had
 5 come through. Because Rhode Island, Vermont,
 6 New Hampshire and Maine had put in a proposal to 1:56PM
 7 explore doing something similar to this. It's not
 8 exactly the same.
 9 They've received funding so it looks
 10 like -- it won't be exactly what is described here,
 11 but some of the ideas and concepts may begin to be 1:57PM
 12 explored again in those four states.
 13 Q. Is there a plan to do something further
 14 with this proposed system in Massachusetts?
 15 A. At this time, no. Although, I am having a
 16 meeting with the DOE on Monday, which we're talking 1:57PM
 17 about these issues again.
 18 Q. What's to be discussed on Monday?
 19 A. The role of computers and web-based
 20 information systems in the Massachusetts
 21 accountability system. 1:57PM
 22 Q. Where is the -- the data in Nos. 1, 2, 3
 23 and 4 on Pages 52 and 53, where's that from? And
 24 one thing I'm -- well, let me just ask you that.
 25 Where does this come from?

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1 MS. LHAMON: What is -- 1:58PM
 2 BY MR. SALVATY: 1:58PM
 3 Q. It looks like it's been brought into the
 4 report from somewhere else.
 5 Is that true?
 6 A. Yeah, it's from the -- it's basically from 1:58PM
 7 the proposal. I may have made some minor edits too.
 8 Q. Is this your proposal?
 9 A. Yeah.
 10 Q. So when it says -- when it refers to "I,"
 11 "I do not advocating testing," that's you? 1:58PM
 12 A. Yeah, that's coming out of the proposal,
 13 right.
 14 Q. Okay. When did you develop this proposal?
 15 A. Roughly two years ago.
 16 Q. And who was the proposal submitted to? 1:58PM
 17 A. We talked about this. It was the Gates
 18 Foundation.
 19 Q. Okay. Was -- was this proposal submitted
 20 to the Rhode Island Board of Education?
 21 A. They wrote a letter in support for it. It 1:59PM
 22 wasn't submitted to them, because we wouldn't have
 23 been asking them for funding for it, but I believe
 24 the superintendent of schools or the assistant
 25 superintendent of the state, basically, would have

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1 seen a draft of this, I believe, or at least a 1:59PM
 2 summary of it, because they wrote a letter of 1:59PM
 3 support.
 4 Q. Do you see on Page 53 that:
 5 ". . .this proposed accountability
 6 system has received support from a 2:00PM
 7 variety of educational and political
 8 leaders in Massachusetts. . ."
 9 Who are you referring to there?
 10 A. There were letters of support written from
 11 the Commissioner of Education, David Driscoll; the 2:00PM
 12 chairman of the -- the board, James Pyser. The
 13 director of an organization that does a lot of work
 14 around promoting, M. Harris. I forget the name of
 15 that board or that organization now.
 16 There was the chairmans -- joint chairmans 2:00PM
 17 for the education committee, or whatever it's
 18 called, in the state legislature. There was the
 19 presidents of, I believe, the unions. I think we
 20 got both the unions, if I remember correctly,
 21 directors of at least one collaborative, I think a 2:00PM
 22 couple of collaboratives. Some people that were
 23 critical of the state testing program at the time as
 24 well.
 25 There may have been others. There was a

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1 list of about 10 or 18 people. 10 to 18 people. 2:01PM
 2 Q. Under No. 2, you talk about, "teachers 2:01PM
 3 actively involved in analyzing and scoring student
 4 work," Page 52.
 5 A. Yes.
 6 Q. Then it says: 2:01PM
 7 "Most state-level testing programs
 8 restrict teachers from viewing the
 9 work students produce during
 10 on-demand tests."
 11 Is that true in California? 2:01PM
 12 A. Well, I mean, they can see it while the
 13 students are taking it. But it's after the fact.
 14 And I believe -- I believe -- I believe that's true
 15 in California.
 16 I believe that's true; although, I'm not 2:02PM
 17 100 percent sure on that.
 18 Q. Do you have an opinion about what
 19 California should do to provide an opportunity for
 20 teachers to actively assess the quality of their
 21 students' work on state tests? 2:02PM
 22 MS. LHAMON: The question's vague.
 23 THE WITNESS: Again, an issue like that
 24 comes back for the purpose in how much resources are
 25 allocated and the -- the types of items and types of

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1 measures you're trying to collect. 2:02PM
 2 So it's difficult to answer that -- that 2:02PM
 3 question without putting it in, you know, clear
 4 context.
 5 BY MR. SALVATY:
 6 Q. In the first couple of days of your 2:03PM
 7 deposition, you also mentioned that you thought
 8 Maine's accountability system had certain aspects
 9 that might be useful for use in California?
 10 A. Uh-huh.
 11 Q. Is that right? 2:03PM
 12 A. Yes. I'm sorry.
 13 Q. What aspects of Maine's system do you
 14 think should be incorporated into California's
 15 program?
 16 A. It's essentially in Maine, what I find to 2:03PM
 17 be useful is that the school -- the flexibility at
 18 the school level. Maine takes it further than
 19 probably needed in California, in the sense that
 20 they're allowed -- there's not a standard state
 21 assessment. So each state school develops its own 2:04PM
 22 assessment plan, very much like one of the previous
 23 assessment programs in California. I forget the
 24 name of it. But it's described in the report.
 25 And I don't think that's really necessary

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1 to take it that -- that far. But the notion of 2:04PM
 2 actively involved in the schools, in thinking about 2:04PM
 3 what it is they're trying to learn, what they're
 4 trying to do, and how effective it is. That's --
 5 that's the aspect of Maine that I think should be
 6 brought to California. 2:04PM
 7 Q. Are there any other aspects?
 8 A. I'd say that's real -- that's the major
 9 one.
 10 Q. All right. Let me turn back to the
 11 introductory section of your report, Page Roman 2:06PM
 12 numeral vi.
 13 A. Yes.
 14 (Interruption at the door.)
 15 BY MR. SALVATY:
 16 Q. The first sentence in the second paragraph 2:06PM
 17 is:
 18 "A system like California's, which
 19 ranks, rewards and punishes schools
 20 based on outcomes, without also
 21 requiring and assisting them to 2:06PM
 22 provide quality inputs, is not only
 23 extremely limited in terms of its
 24 ability to direct positive change,
 25 it is damaging in and of itself."

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1 What do you mean when you say the system 2:07PM
 2 is damaging in and of itself? 2:07PM
 3 A. Again, we talked about this a lot last
 4 time. That the system, because it doesn't look at
 5 what's actually happening in school, allows for
 6 schools and teachers to implement unsound 2:07PM
 7 educational practices, and that's damaging.
 8 Again, not that it's happening everywhere,
 9 but it does happen. And it goes undetected.
 10 Q. What evidence can you cite that supports
 11 your opinion that it is happening in California? 2:07PM
 12 A. The Amrein & Berliner study, published in
 13 Educational Policy Analysis archives, provides
 14 evidence.
 15 Q. What was that last one? I'm sorry.
 16 A. Educational Policy Analysis Archives. 2:08PM
 17 That's where the study was published.
 18 Q. Oh.
 19 A. And I present a number of survey items
 20 that provide some evidence that it's happening in
 21 some places. 2:08PM
 22 Q. Do you have an opinion about how
 23 widespread the problem that you mentioned is in
 24 California?
 25 A. We can go through the tables, the numbers,

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1 and look at the percentage of teachers that are 2:08PM
 2 responding to each question. And because it's a 2:08PM
 3 random sample, it will give you a pretty good sense
 4 of how widespread it is.
 5 Q. You're talking about the -- the study that
 6 you cite in here, the survey? 2:08PM
 7 A. The -- the analysis of the subset of
 8 survey data, yes.
 9 Q. I mean, without going through and
 10 comparing the data, do you have an opinion about
 11 whether the problem you've identified is widespread? 2:09PM
 12 A. It's happening -- it's in more than
 13 isolated cases. And, again, it depends on the
 14 practice. If you're talking about outright
 15 cheating, that's happening significantly less than
 16 altering the use of computers for writing, which 2:09PM
 17 is -- I have seen, which appears to be happening
 18 more. Restricting curriculum seems to be happening
 19 more.
 20 Q. On the next page you -- at the first, I
 21 guess, complete sentence: 2:10PM
 22 "While many of these problems are
 23 more likely to occur in
 24 low-performing schools than in
 25 high-performing schools, the narrow

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1 focus on outcomes may be" -- "may 2:10PM
 2 also be harmful for students in 2:10PM
 3 high-performing schools."
 4 What's the basis for your statement that
 5 many of these problems are more likely to occur in
 6 low-performing schools than in high-performing 2:10PM
 7 schools?
 8 A. Again, some of the past research that's
 9 been done on this has shown that the way in which
 10 schools and teachers will react to testing programs
 11 tends to be stronger in low-performing schools than 2:10PM
 12 in high-performing schools.
 13 So that's -- that's the basis.
 14 Q. What research are you referring to?
 15 A. The prior study from the National Board
 16 funded by the INSF. 2:11PM
 17 I can't remember the names of all the
 18 other ones. But even the analyses that I've done
 19 from the most recent National Board survey publishes
 20 that as well.
 21 Again, I could -- I've written about this, 2:11PM
 22 and have an article that will be published, I think
 23 by this spring, that shows that specifically the use
 24 of computers, that it's happening more.
 25 Q. That shows what?

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1 A. That teachers are moving away from using 2:11PM
 2 computers for teaching of writing in response to the 2:11PM
 3 state tests. And that happens more in schools that
 4 are low performing or serve students who, you know,
 5 tend to be more disadvantaged.
 6 Q. In the next paragraph, you talk about how 2:12PM
 7 some student learning is influenced by factors
 8 outside of a school's control.
 9 Do you see that?
 10 A. Uh-huh.
 11 Q. What -- what's the basis for that 2:12PM
 12 statement?
 13 A. There's a whole body of research that's
 14 examined that.
 15 Q. Did you review any of that research in
 16 connection with your work on this case? 2:12PM
 17 A. Not specifically for what it is. I'm
 18 generally familiar with it.
 19 Q. What is the body of research you're
 20 referring to?
 21 MS. LHAMON: Vague. Do you mean 2:13PM
 22 specifically who are the authors?
 23 BY MR. SALVATY:
 24 Q. Well, I'm trying to figure out what --
 25 what it is that this body of research proves, and

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1 then I'd like to ask who -- who are -- who are the 2:13PM
 2 authors of any of the studies in this body of 2:13PM
 3 research.
 4 A. Well, there's --
 5 MS. LHAMON: The question's overbroad.
 6 THE WITNESS: I'm not sure -- I wouldn't 2:13PM
 7 say approves, but it provides evidence that supports
 8 basically what I'm saying here.
 9 It goes back to the Coleman report. It
 10 was published in, I think, the early '70s, late --
 11 yeah, I think it was early '70s when it was 2:13PM
 12 published. And there's a whole series of studies
 13 that have followed up on that and reanalysis of that
 14 data as well.
 15 There's a whole body of research that's
 16 been conducted over, I'd say, 30 years now. 2:14PM
 17 BY MR. SALVATY:
 18 Q. Have you ever done any independent
 19 research on that subject?
 20 A. I've -- I've done analyses where I'm
 21 controlling for the influence of home factors. And 2:14PM
 22 when you do that, I've seen that it does make a
 23 difference in predicted scores. But I haven't
 24 done -- I haven't published anything that basically
 25 supports what's been demonstrated over and over

1 again. 2:14PM
 2 Q. Is there any way to quantify the extent to 2:14PM
 3 which learning is influenced by factors outside of
 4 school?
 5 MS. LHAMON: Calls for speculation.
 6 THE WITNESS: You know, various studies 2:14PM
 7 have put different estimates on the amount of
 8 variance that can be explained by home factors. And
 9 I've seen estimates from somewhere around 20,
 10 30 percent up to 50 percent. Again, it varies --
 11 varies on the study. 2:15PM
 12 BY MR. SALVATY:
 13 Q. Do you remember the -- can you identify
 14 the studies that you're talking about?
 15 A. If I had access to my files, I could.
 16 Q. You say in your report that: 2:15PM
 17 "Because these external factors
 18 play a role in high test scores,
 19 they may overcome poor educational
 20 practices employed within a
 21 high-performing school. That is, a 2:15PM
 22 school could be high-scoring on
 23 tests and meet performance targets
 24 in the accountability system,
 25 despite a low quality of educational

1 ////
 2 BY MR. SALVATY: 2:17PM
 3 Q. Do you know of any instances where a
 4 school has performed high on standardized tests
 5 despite poor educational practices?
 6 MS. LHAMON: Anywhere in California? 2:17PM
 7 BY MR. SALVATY:
 8 Q. Anywhere.
 9 A. Do you mean can I name a single school or
 10 a single classroom?
 11 Q. A single instance where that's been shown 2:17PM
 12 to be the case.
 13 A. Well, again, as I just explained, the
 14 standards model, the Tennessee Valley ideal model, I
 15 think identifies a number of schools. I couldn't
 16 name the specific schools under which that happens, 2:17PM
 17 but the existence of that model is to do exactly
 18 that.
 19 Q. It was to identify those schools?
 20 A. Well, I mean, it's more than that. It's
 21 the control for home factors when you're looking at 2:18PM
 22 the influence of -- of teachers and schools on
 23 student learning.
 24 Q. I understand that. But my question's a
 25 little different.

1 practices." 2:16PM
 2 Do you see that? 2:16PM
 3 A. Uh-huh.
 4 Q. What is the basis for that opinion?
 5 MS. LHAMON: For both of them?
 6 MR. SALVATY: I thought they were really 2:16PM
 7 the same -- making the same point.
 8 THE WITNESS: Well, in part, it's common
 9 sense, and in part, it's why models like the
 10 Tennessee Valley model were developed.
 11 I mean, that model specifically is trying 2:16PM
 12 to adjust for, or explore differences between
 13 predicted scores, based on things like demographics
 14 or background variables, and the -- the actual
 15 performance, which is believed to be influenced by
 16 school practices. 2:16PM
 17 In that model, you know, some of those
 18 schools are seen as underperforming, even though
 19 they have high scores, because much of the
 20 performance is predicted by the -- the home factors.
 21 And then the school -- the students are essentially 2:17PM
 22 under- -- underperforming what's predicted.
 23 So it's believed then that the schools
 24 then are underperforming, or not having so much
 25 impact as -- as they ought to.

1 I'm trying to find out specific examples 2:18PM
 2 where a school has performed high on standardized 2:18PM
 3 tests despite poor educational practices.
 4 A. And I'm -- I said that the standards model
 5 has identified schools that are predicted -- who've
 6 performed lower than predicted, which be -- which is 2:18PM
 7 an indication that the practices in those schools
 8 are not accomplishing what -- what they ought to, on
 9 average. But I can't name those schools. But those
 10 schools have been identified through -- yeah,
 11 they've been identified through that model. 2:18PM
 12 Q. Other than the standards model, are you
 13 able to identify any other instances where this has
 14 happened?
 15 A. No, not off the top of my head.
 16 I can name -- I could identify districts 2:19PM
 17 that have questionable -- schools in which there's
 18 questionable practices, and yet students are still
 19 performing high on -- on tests, if that's what you
 20 mean.
 21 Q. Where -- where would that be? 2:19PM
 22 A. Well, I can think of a couple schools in
 23 Massachusetts in which that -- that seems to be the
 24 case, but I haven't done systematic research to
 25 demonstrate that it's poor educational practices.

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1 It's just based on, you know, our visits, 2:20PM
2 our observations, our interviews over time that 2:20PM
3 they're doing things very differently. And, you
4 know, from my perspective, it would be questionable.
5 Q. Do you know of any California schools that
6 are high-scoring on tests despite a low quality of 2:20PM
7 educational practice?
8 A. No, I'm not familiar with the individual
9 California schools.
10 Q. Do you know of any California schools that
11 are high-scoring on tests despite having large 2:20PM
12 numbers of nonfully-credentialed teachers?
13 A. I'm not familiar with the individual
14 California schools.
15 Q. Is the same true for instructional
16 materials and facilities? Do you know of any 2:21PM
17 California schools that are high-scoring on tests
18 despite having inadequate instructional materials or
19 poor facilities that are in poor condition?
20 A. I'm not familiar with the individual
21 California schools. 2:21PM
22 Q. I have a couple of documents that I'd like
23 to show you. I'd like to make a couple of copies of
24 some documents. Take about five minutes; be right
25 back.

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1 THE WITNESS: Let's go ahead. 2:22PM
2 MS. SPANGLER: Let's take a short break. 2:22PM
3 (Recess taken.)
4 BY MR. SALVATY:
5 Q. All right. Professor Russell, let me show
6 you a document that was produced yesterday. It's 2:37PM
7 PLTF-XP-MR 3020, and it says "Memo from Michael
8 Russell" at the top.
9 I've got several copies, if you want. I
10 don't have enough copies. Not even close.
11 MS. SPANGLER: Are we -- 2:38PM
12 BY MR. SALVATY:
13 Q. Do you see this document?
14 A. Yes.
15 Q. I'm going to mark this as next in order.
16 I don't know what -- 2:38PM
17 MS. LHAMON: 3.
18 MR. SALVATY: Okay. Great. Mark it as
19 Exhibit 3.
20 (Deposition Exhibit 3 was marked for
21 identification and is annexed hereto.) 2:38PM
22 THE WITNESS: Okay. Yes.
23 BY MR. SALVATY:
24 Q. What is this document?
25 A. I don't recall exactly. I'm guessing it

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1 was -- 2:39PM
2 MR. ROSENBAUM: He doesn't want you to 2:39PM
3 guess.
4 THE WITNESS: I -- I don't know exactly.
5 With the words "Memo from Michael Russell"
6 up on top, I don't know, because I don't know if I 2:39PM
7 would have written that.
8 BY MR. SALVATY:
9 Q. Do you know who prepared that?
10 A. These look like my words, so I'm assuming
11 I wrote this, but I -- I'm assuming these are my 2:39PM
12 words. I just -- I don't know without -- I don't
13 know what it is, except for my words.
14 Q. Do you have any idea when this was
15 prepared?
16 A. I believe I would have written something 2:40PM
17 like this before the meeting in Los Angeles where I
18 was describing some of the issues I'm thinking of
19 exploring in the scholarly paper. And I would have
20 written something like this to Jeannie Oakes,
21 saying: This is the types of things that I'm 2:40PM
22 thinking of exploring.
23 Q. Or just --
24 A. Again, I don't remember this exact
25 document.

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1 Q. Okay. Let me ask you about the last 2:40PM
2 sentence in the first paragraph. 2:40PM
3 "The big aha for those not
4 familiar with broader issues in
5 education is that the state, courts
6 and schools define the purposes of 2:40PM
7 education as many, but the state
8 accountability system focus only on
9 one."
10 MS. LHAMON: This calls for speculation
11 because we don't know what the document is. 2:41PM
12 MR. SALVATY: Okay.
13 Q. I'm wondering if you have any -- do you
14 remember writing that?
15 A. I don't remember. Again, I don't remember
16 this exact document. 2:41PM
17 What's particularly confusing is the "Memo
18 from Michael Russell" piece. But when I look at
19 aspects of this, it's clear that these are my words,
20 and this is the one I'm referring -- when it's
21 referring to a colleague who is doing an interesting 2:41PM
22 analysis, that's clearly a colleague of mine,
23 because that's the person that was doing -- and
24 we've talked about this before.
25 I'm just confused about the "Memo from

1 Mike Russell." I usually don't write that. I may 2:41PM
 2 have, but it's confusing me. If it's an e-mail, 2:41PM
 3 usually when you print out an e-mail, it has the
 4 header that tells you who it's clearly from, and so
 5 forth.

6 But, clearly, a lot of these words on here 2:41PM
 7 are words that I probably would have written.

8 Q. Do you remember writing the sentence that
 9 I just read that starts with, "The big aha"?

10 A. I don't remember specifically right now,
 11 but it wouldn't surprise me if I did write it. 2:42PM

12 Q. Do you agree with that statement?

13 MS. LHAMON: The question's vague.

14 THE WITNESS: What -- what aspect of it?

15 BY MR. SALVATY:

16 Q. Can you explain what this statement means? 2:42PM

17 A. Yeah, it's saying that the -- the purpose
 18 of education is defined broadly as having impacts on
 19 many different things; many different areas of
 20 student learning, growth. But that state
 21 accountability systems generally focus on one. 2:42PM

22 So, in essence, state -- generally, state
 23 accountability -- systems are focusing on a limited
 24 aspect of education.

25 Q. Okay. When you refer to a colleague here,

1 A. I've seen him -- he's described it to me. 2:44PM
 2 And I believe I've seen a table or two, 2:44PM
 3 where he kind of compares it, the two. But beyond
 4 that, no, I haven't -- I haven't seen the full paper
 5 or report on it. It wasn't really a report. It was
 6 more a paper. 2:44PM

7 Q. Did you review that report in connection
 8 with your work on this case?

9 A. No, I did not.

10 Q. Paragraph 2 says:

11 "Second, I'd like to examine (or 2:44PM
 12 better yet summarize the findings of
 13 others who have already examined)
 14 the alignment of the state
 15 'standards' with content and skills
 16 tested." 2:45PM

17 Do you see that?

18 A. Yes.

19 Q. Did you perform that examination in this
 20 case?

21 A. No, it became clear that there was no need 2:45PM
 22 to do that.

23 Q. How did that become clear?

24 A. Because one of the advisory committees
 25 stated outright that there was a poor alignment. So

1 do you know who that's referring to? 2:43PM

2 A. You mean in the first paragraph? 2:43PM

3 Q. Yes.

4 A. Yes.

5 Q. Who is that?

6 A. That would have been Damian Bebell, 2:43PM
 7 B-e-b-e-l-l.

8 Q. Has Mr. Bebell completed that analysis, to
 9 your knowledge?

10 A. I think in some form. It hasn't been
 11 published, and I don't think it's been submitted for 2:43PM
 12 publication, but I may be wrong about that.

13 Q. Who is Mr. Ebel?

14 A. "Bebell."

15 Q. Bebell. Sorry.

16 A. He's a research associate at the center, 2:43PM
 17 and a grad student, advanced grad student in the
 18 learning program at BC.

19 Q. Have you reviewed the analysis that's
 20 referenced here?

21 A. That he did? 2:44PM

22 Q. Yes.

23 A. No, I have not reviewed the whole thing,
 24 no.

25 Q. Have you reviewed parts of it?

1 I don't think it was a good use of my time. 2:45PM

2 Q. What document are you referring to that 2:45PM
 3 says there's -- you said there's a document that
 4 says there's poor alignment of the state standards
 5 with content and skills tested?

6 A. Yeah. 2:45PM

7 MS. LHAMON: Misstates the testimony. He
 8 said the advisory committee said that.

9 BY MR. SALVATY:

10 Q. Okay. Are you referring to the SAT 9 when
 11 you talk about the content and skills tested? 2:45PM

12 A. Yeah, at that time I would have been
 13 talking about that, yes.

14 Q. Okay. The last paragraph talks about
 15 alternative notions of accountability, and
 16 references an alternative put forth by Walt Haney. 2:46PM

17 Do you see that?

18 A. Yes.

19 Q. Which is -- which is the alternative put
 20 forth by Walt Haney?

21 What I'm asking for, is there a study that 2:46PM
 22 embodies that alternative put forth by Walt Haney?

23 A. Yeah, it's referenced in here in -- it was
 24 produced. It's in here, outcome of accountability
 25 measures, or something to that effect.

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1 MS. LHAMON: When you say "in here," you 2:46PM
2 mean in the expert report? 2:46PM
3 THE WITNESS: In the expert report, yeah.
4 BY MR. SALVATY:
5 Q. That's not the Haney study that's referred
6 to as "in press," is it? 2:46PM
7 A. No. That's the Haney-read check.
8 Q. Okay.
9 MS. LHAMON: I don't know if it's just me,
10 but I'm having just a little bit of difficulty
11 hearing you. 2:47PM
12 THE WITNESS: Okay. I'll talk louder.
13 BY MR. SALVATY:
14 Q. All right. Let me just show you another
15 document.
16 This is marked PLTF-XP-MR-1104. Let's 2:47PM
17 mark that one next in order.
18 (Deposition Exhibit 4 was marked for
19 identification and is annexed hereto.)
20 MR. SALVATY: Didn't make enough copies.
21 (Pause in proceedings.) 2:48PM
22 THE WITNESS: Okay.
23 BY MR. SALVATY:
24 Q. Have you seen this before?
25 A. Yeah.

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1 Q. What is this? 2:48PM
2 A. Just an e-mail from Stacey to me. 2:48PM
3 Q. It says -- looks like February 18th, 2002.
4 A. Yes.
5 Q. Do you believe that's when you would have
6 seen this? 2:49PM
7 A. Yeah. Yeah.
8 Q. Let me just ask you, I guess in the fifth
9 paragraph down, the one that starts "It's funny."
10 A. Yes.
11 Q. It says: "I think I'm confused by 5.4." 2:49PM
12 And I noticed in your report, there is no
13 Section 5.4.
14 Do you know what this is referring to?
15 A. I'm guessing that's a much earlier draft.
16 And I'm guessing that has become the section that's 2:49PM
17 on -- let me just flip through this.
18 MS. LHAMON: (Indicating.)
19 THE WITNESS: Just flip through here for a
20 second.
21 BY MR. SALVATY: 2:50PM
22 Q. I don't know if it will help, but the next
23 paragraph explains a little bit about what 5.4 is.
24 A. Yeah, it's the section where I'm making
25 estimates on -- it's basically where I was talking

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1 about new students entering into the school, and 2:50PM
2 how, if you have a large percentage of LEPs who, if 2:51PM
3 you've seen them perform at the national average for
4 an LEP, it's going to make it more difficult for the
5 school to reach its goal.
6 I just don't remember where in this report 2:51PM
7 it ended up going. I think it went into an
8 appendix, but I just don't remember. But I'm -- I'm
9 confident, almost positive, that's what she's
10 talking about.
11 Q. Okay. 2:51PM
12 A. It's foot end note 14.
13 Q. Later in the paragraph, it says:
14 "Section 5.3 is a really important
15 point, and in a way that alone, to
16 me upon re-reading, condemns the 2:51PM
17 whole system even though it's so
18 short."
19 What is -- do you know what Stacey is
20 referring to when she talks about Section 5.3?
21 MS. LHAMON: The question lacks 2:52PM
22 foundation.
23 THE WITNESS: I don't. I have no
24 recollection what section that was.
25 BY MR. SALVATY:

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1 Q. You have no memory of what she's talking 2:52PM
2 about there? 2:52PM
3 A. I don't remember what Section 5.3 was.
4 Q. How about putting Section 5.3 aside, do
5 you have any recollection of what she's referring to
6 here? 2:52PM
7 MS. LHAMON: Same objection.
8 THE WITNESS: No, I really don't.
9 BY MR. SALVATY:
10 Q. At the end, the last sentence says: "I
11 slashed and burned Section 6." 2:52PM
12 Do you know what that refers to?
13 A. I -- I don't. I know she was trying to do
14 some -- some modeling. She tried to model a number
15 of different things for me, and I don't remember
16 which -- which we would have done in Section 6. So 2:53PM
17 I'm not -- I'm not sure.
18 Q. All right. Let me mark as next in order,
19 this one's PLTF-XP-MR 1096.
20 (Deposition Exhibit 5 was marked for
21 identification and is annexed hereto.) 2:53PM
22 MS. LHAMON: Thank you.
23 THE WITNESS: Yes.
24 BY MR. SALVATY:
25 Q. I just want to ask you about the paragraph

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1 that starts "FYI." 2:54PM
 2 A. Yes. 2:54PM
 3 Q. Do you see that?
 4 A. Yes.
 5 Q. It says:
 6 "FYI, on the multivariate model 2:54PM
 7 front, it appears that the effect of
 8 emergency credentialing is still
 9 significant, but much smaller than
 10 the simple" -- correlations? --
 11 "corrs" -- 2:54PM
 12 A. Right.
 13 Q. -- "would lead you to believe
 14 once other basic school/student
 15 characteristics are in a model."
 16 What is this referring to? 2:55PM
 17 MS. LHAMON: Lacks foundation.
 18 THE WITNESS: I believe -- I think in one
 19 of these tables -- I'd have to look where it was
 20 again in here, in the report. We talk about the
 21 correlation -- or I talk about the correlation -- is 2:55PM
 22 it in here? -- correlation between high scores and
 23 percent of emergency credential with API scores and
 24 various student demographics.
 25 And so we were trying to get a -- we're

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1 exploring, trying to build a model that looked at 2:55PM
 2 the relationship between all those. But it became 2:55PM
 3 pretty clear that we really had to do some
 4 multilevel modeling. And that's -- that's what it's
 5 referring to.
 6 BY MR. SALVATY: 2:56PM
 7 Q. Where in the report are you referring to?
 8 A. I -- let me take a look at the report.
 9 Q. Page 46?
 10 A. Yes. Table 21.
 11 Q. What does Table 21 illustrate? 2:56PM
 12 A. We were looking again at the correlations
 13 again between API scores and various kind of
 14 demographics, school-level demographics, including
 15 100 percent emergency credentialed teachers.
 16 And just showing there's a negative 2:56PM
 17 relationship between API performance and the percent
 18 of emergency credentialed teachers, the percent of
 19 free -- free lunch students and English learners,
 20 and so forth.
 21 Q. Just above the table, the last sentence 2:57PM
 22 says:
 23 "While several factors combine to
 24 influence the relationship between
 25 SES and API scores, teacher quality

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1 (as represented by emergency 2:57PM
 2 credentialing) is one key factor." 2:57PM
 3 Does Table 21 illustrate that point?
 4 A. In part, it does. I mean, it's showing
 5 that there's a negative correlation. But, again,
 6 this e-mail talks about -- there's 2:57PM
 7 interrelationships between all these variables.
 8 So it's difficult to -- to estimate,
 9 independent of these other factors, how much
 10 emergency credentialed teachers are related to
 11 student performance as measured by the API. 2:57PM
 12 Q. How did you go about creating a
 13 multivariate model that would analyze this?
 14 A. We ended up not creating a multilevel
 15 model.
 16 Q. Why not? 2:58PM
 17 A. Basically, time and priorities.
 18 I was -- I mean, the purpose of my report
 19 was to look at accountability issues and not
 20 specifically exploring all the different factors
 21 that may or may not influence student learning. 2:58PM
 22 Q. Did you investigate whether others had
 23 done modeling on this issue, modeling of these
 24 issues?
 25 A. No, I didn't.

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1 Q. I'll just refer you to one more document. 2:59PM
 2 This is a CDE News Release. And it's dated today, 2:59PM
 3 entitled, "2002 Base Academic Performance Reported
 4 for California Public Schools."
 5 MS. LHAMON: Thank you.
 6 (Deposition Exhibit 6 was marked for 2:59PM
 7 identification and is annexed hereto.)
 8 MR. SALVATY: I'll give you this one.
 9 MS. LHAMON: That's gonna be the real one.
 10 MR. SALVATY: That's all right. I wrote
 11 on this one. It will just take a sec. 3:00PM
 12 Q. I'll just refer you to the second page,
 13 the second full paragraph. The first sentence says:
 14 "The purpose of the API is to
 15 measure the academic performance and
 16 progress of schools." 3:00PM
 17 Page 2.
 18 A. Yes.
 19 Q. Is that consistent with your understanding
 20 of the purpose of the API?
 21 A. That's -- that's one of the purposes, 3:01PM
 22 yeah, that have been -- yeah. I mean, the problem
 23 with the purpose of the API and of the
 24 accountability in California is different people in
 25 different places talk about it in different ways.

1 So this is one of the purposes that's 3:01PM
 2 mentioned. 3:01PM
 3 Q. Do you have an opinion about whether the
 4 API represents a reasonable attempt to accomplish
 5 that purpose?
 6 A. What do you mean by "reasonable"? 3:01PM
 7 Q. I just mean it by it's common usage.
 8 MR. ROSENBAUM: And also, Counsel, can you
 9 define what you mean by -- you've given him a piece
 10 of paper, which he had no -- no clear assessment or
 11 foundation he had anything to write. 3:01PM
 12 I don't know what you mean by progress of
 13 schools and academic performance. You have to find
 14 out what those words mean.
 15 MR. SALVATY: I don't think I do.
 16 MR. ROSENBAUM: Well, then, your question 3:02PM
 17 has no foundation, calls for speculation and is
 18 hopelessly vague.
 19 BY MR. SALVATY:
 20 Q. Are you able to answer my question?
 21 A. What was the question again? 3:02PM
 22 MR. SALVATY: Okay. Will you ask my
 23 question again.
 24 (Record read.)
 25 THE WITNESS: Yeah, as I interpret the

1 term "progress of schools." I don't think it 3:02PM
 2 provides any information about the progress of 3:02PM
 3 schools, because it's unclear what they're supposed
 4 to be progressing towards here.
 5 If it's towards progress, progress towards
 6 better instructional practices, no. If it's towards 3:03PM
 7 progress towards providing better facilities, better
 8 opportunities to learn, no.
 9 In terms of academic performance, you
 10 know, we've talked about this at length, that the
 11 API does not provide useful information about 3:03PM
 12 academic performance because it takes multiple
 13 pieces of information, which on the previous page
 14 are outlined, and boils it down to a single number.
 15 And based on that API, you don't know if a
 16 school is performing well on math, not on social 3:03PM
 17 studies or language arts. Not on language arts or
 18 social studies and math.
 19 You have no idea whether they're
 20 performing equally well at fourth grade, fifth
 21 grade, second grade. 3:03PM
 22 So in that sense, I don't think it's --
 23 no. I'd have to say no.
 24 MR. SALVATY: All right. I'm going to
 25 yield my time. I think I probably will have some

1 cleanup, go through my notes, ask a few questions 3:04PM
 2 later, but right now I'd like to yield. 3:04PM
 3 MS. LHAMON: Okay. Go off the record for
 4 a second.
 5 MR. SALVATY: Sure.
 6 (Whereupon, at 3:04 P.M, the 3:04PM
 7 proceedings were adjourned, to be
 8 resumed Friday, February 21, 2002,
 9 at 9:30 A.M. at the same place.)
 10 (TIME NOTED: 3:04 P.M.)
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1 I declare under penalty of perjury
 2 under the laws of the State of California
 3 that the foregoing is true and correct.
 4 Executed on _____, 2003,
 5 at _____, _____.
 6
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 10 _____
 11 SIGNATURE OF THE WITNESS
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1 STATE OF CALIFORNIA) ss:
2 COUNTY OF LOS ANGELES)
3

4 I, KATHY KELLOGG, CSR No. 6591, do
5 hereby certify:
6

7 That the foregoing deposition of MICHAEL
8 RUSSELL, was taken before me at the time and place
9 therein set forth, at which time the witness was
10 placed under oath and was sworn by me to tell the
11 truth, the whole truth, and nothing but the truth;
12

13 That the testimony of the witness and all
14 objections made by counsel at the time of the
15 examination were recorded stenographically by me,
16 and were thereafter transcribed under my direction
17 and supervision, and that the foregoing pages
18 contain a full, true and accurate record of all
19 proceedings and testimony to the best of my skill
20 and ability.
21

22 I further certify that I am neither counsel for
23 any party to said action, nor am I related to any
24 party to said action, nor am I in any way interested
25 in the outcome thereof.

1 IN WITNESS WHEREOF, I have subscribed my name
2 this 10th day of March, 2003.
3
4

5
6
7 _____
8 KATHY KELLOGG, CSR No. 6591
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1 I N D E X
2 VOLUME I
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4 THURSDAY, FEBRUARY 20, 2003
5

6 WITNESS EXAMINATION
7

8 MICHAEL RUSSELL, Ph.D.
9

10 (By Mr. Salvaty) 375
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1 DEPOSITION EXHIBITS
2 MICHAEL RUSSELL, Ph.D.
3

4	NUMBER	DESCRIPTION	IDENTIFIED
5	3	One-page document titled, "Memo from Michael Russell"; Bates stamped PLTF-XP-MR 3020	473
9	4	One-page e-mail dated February 18, 2002 to Michael Russell from Stacey; Bates stamped PLTF-XP-MR 1104	480
14	5	One-page e-mail dated January 11, 2002 to Michael Russell from Anastasia E. Raczek; Bates stamped PLTF-XP-MR 1096	483
19	6	Two-page document titled, "California Department of Education News Release" dated 2/20/03	487